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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA V. KARL BRANDT ET AL. (CASE I)

NOVEMBER 21, 1946-AUGUST 20, 1947

Roll 10

Transcript Volumes (English Version)

Volumes 25-27
June 16-28, 1947



THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION

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INTRODUCTION

On the 46 rolls of this microfilm publication are reproduced the records of Case I (*United States of America v. Karl Brandt et al.*, or the "Medical" Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs, and final pleas of the defendants as well as prosecution and defense exhibits and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 30 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. The prosecution and defense briefs and answers are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. The unbound prosecution exhibits, numbered 1-570, are essentially those documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically. Both prosecution document books and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book, in one bound volume, is a summary of the transcripts. The official court file, in four bound volumes, includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants applications for documents; motions; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendants, in five bound volumes, were directed to the military governor, the Judge Advocate General, the U.S. district court, the Secretary of Defense, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case I was heard by U.S. Military Tribunal I from November 21, 1946, to August 20, 1947. The records of this case, as the

records of the other Nuernberg and Far East (IMTFE) war crimes trials, are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The Brandt case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the International Military Tribunal against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943, Executive Order 9547 of May 2, 1945, the London Agreement of August 8, 1945, the Berlin Protocol of October 6, 1945, and the Charter of the International Military Tribunal.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances Nos. 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. The procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the International Military Tribunal and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

The crimes charged in the Brandt case consisted largely of medical experiments performed on defenseless concentration camp inmates against their will; "euthanasia" carried out on the mentally defective, the physically sick, the aged, and ethnic and racial groups; and the murder of concentration camp inmates for the express purpose of collecting skulls and skeletons for the Anatomical Institute of the Reich University of Strassburg. The following medical experiments were conducted:

1. High altitude: to investigate effects of low pressure on persons.
2. Freezing: to test human resistance to extremely low temperatures.
3. Malaria: to develop controls over the recurring nature of the disease.
4. Mustard gas: part of a general research program in gas warfare.
5. Sulfanilamide: to test the efficacy of the drug in bone muscle and nerve regeneration and bone transplantation.
6. Seawater: to test methods of rendering seawater potable.
7. Epidemic jaundice: to develop an antitoxin against the disease.
8. Sterilization: to test techniques for preventing further propagation of the mentally and physically defective.
9. Typhus: to investigate the value of various vaccines.
10. Poison: to test the efficacy of certain poisons.
11. Incendiary bomb: to find better treatment for phosphorus burns.

The prosecution alleged and the judgment confirmed that these experiments were not isolated acts of individual doctors and scientists on their own responsibility but that they were the result of high-level policy and planning. They were carried out with particular brutality, often disregarding all established medical practice. Consequently, large numbers of the victims died in the course of or as a result of the experiments.

The euthanasia program was the direct result of a directive by Hitler of September 1, 1939. It resulted in the secret killing not only of aged, insane, incurably ill, and deformed German citizens in sanatoriums in Germany but also in the clandestine murder of foreign workers. The killing in gas chambers and by injections in the sanatoriums served as a proving ground for these forerunners of much larger installations in the mass extermination camps.

In addition to these experiments, over 100 concentration camp inmates were killed for the purpose of obtaining their skeletons. Their ghastly remains were found in Strassburg by Allied troops.

The transcripts of the Brandt case include the indictments of the following 23 persons all of whom were physicians except defendants Rudolf Brandt, Viktor Brack, and Wolfram Sievers:

Karl Brandt: Personal physician to Adolf Hitler, Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS, Reichskommissar fuer Sanitaets- und Gesundheitswesen (Reich Commissioner for Health and Sanitation), and member of the Reichsforschungsrat (Reich Research Council).

Kurt Blome: Deputy [of the] Reichsgesundheitsfuehrer (Reich Health Leader) and Plenipotentiary for Cancer Research in the Reich Research Council.

Rudolf Brandt: Standartenfuehrer (Colonel) in the Allgemeine SS, Persoenlicher Referent von Himmler (Personal Administrative Officer to Reichsfuehrer SS Himmler), and Ministerial Counselor and Chief of the Ministerial Office in the Reich Ministry of the Interior.

Joachim Mrugowsky: Oberfuehrer (Senior Colonel) in the Waffen SS, Oberster Hygieniker, Reichsarzt SS und Polizei (Chief Hygienist of the Reich Physician SS and Police), and Chef des Hygienischen Institutes der Waffen SS (Chief of the Hygienic Institute of the Waffen SS).

Helmut Poppendick: Oberfuehrer in the SS and Chef des Persoenlichen Stabes des Reichsarztes SS und Polizei (Chief of the Personal Staff of the Reich Physician SS and Police).

Wolfram Sievers: Standartenfuehrer in the SS, Reich Manager of the "Ahnenerbe" Society and Director of its Institut fuer Wehrwissenschaftliche Zweckforschung (Institute for Military Scientific Research), and Deputy Chairman of the Managing Board of Directors of the Reich Research Council.

Karl Genzken: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS and Chef des Sanitaetsamts der Waffen SS (Chief of the Medical Department of the Waffen SS).

Karl Gebhardt: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS, personal physician to Reichsfuehrer SS Himmler, Oberster Kliniker, Reichsarzt SS und Polizei (Chief Surgeon of the Staff of the Reich Physician SS and Police), and President of the German Red Cross.

Viktor Brack: Oberfuehrer in the SS and Sturmbannfuehrer (Major) in the Waffen SS and Oberdienstleiter, Kanzlei des Fuehrers der NSDAP (Chief Administrative Officer in the Chancellery of the Fuehrer to the NSDAP).

Waldemar Hoven: Hauptsturmfuehrer (Captain) in the Waffen SS and Chief Physician of the Buchenwald Concentration Camp.

Herta Oberheuser: Physician at the Ravensbrueck Concentration Camp and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Fritz Fischer: Sturmbannfuehrer in the Waffen SS and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Siegfried Handloser: Generaloberstabsarzt (Lieutenant General, Medical Service), Heeressanitaetsinspekteur (Medical Inspector of the Army), and Chef des Wehrmachtsanitaetswesens (Chief of the Medical Services of the Armed Forces).

Paul Rostock: Chief Surgeon of the Surgical Clinic in Berlin, Surgical Adviser to the Army, and Amtschef der Dienststelle Medizinische Wissenschaft und Forschung (Chief of the Office for Medical Science and Research) under the defendant Karl Brandt, Reich Commissioner for Health and Sanitation.

Oskar Schroeder: Generaloberstabsarzt; Chef des Stabes, Inspekteur des Luftwaffe-Sanitaetswesens (Chief of Staff of the Inspectorate of the Medical Service of the Luftwaffe); and Chef des Sanitaetswesens der Luftwaffe (Chief of the Medical Service of the Luftwaffe).

Hermann Becker-Freyseng: Stabsarzt in the Luftwaffe (Captain, Medical Service of the Air Force) and Chief of the Department for Aviation Medicine of the Medical Service of the Luftwaffe.

Georg August Weltz: Oberfeldarzt in the Luftwaffe (Lieutenant Colonel, Medical Service of the Air Force) and Chief of the Institut fuer Luftfahrtmedizin (Institute for Aviation Medicine) in Munich.

Wilhelm Beiglboeck: Consulting physician to the Luftwaffe.

Gerhard Rose: Generalarzt of the Luftwaffe (Brigadier General, Medical Service of the Air Force); Vice President, Chief of the Department for Tropical Medicine, and Professor of the Robert Koch Institute; and Hygienic Adviser for Tropical Medicine to the Chief of the Medical Service of the Luftwaffe.

Siegfried Ruff: Director of the Department for Aviation Medicine at the Deutsche Versuchsanstalt fuer Luftfahrt (German Experimental Institute for Aviation).

Hans Wolfgang Romberg: Physician on the staff of the Department for Aviation Medicine at the German Experimental Institute for Aviation.

Konrad Schaefer: Physician on the staff of the Institute for Aviation Medicine in Berlin.

Adolf Pokorny: Physician, specialist in skin and venereal diseases.

The indictment consisted of four counts. Count one charged participation in a common design or conspiracy to commit war crimes or crimes against humanity. The ruling of the tribunal disregarded this count, hence no defendant was found guilty of the crime charged in count one. Count two was concerned with war crimes and count three, with crimes against humanity. Fifteen defendants were found guilty, and eight were acquitted on these two counts. Ten defendants were charged under count four with membership in a criminal organization and were found guilty.

The transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment and sentences, which acquitted 7 of the 23 defendants (Blome, Pokorny, Romberg, Rostock, Ruff, Schaefer, and Weltz). Death sentences were imposed on defendants Brack, Karl Brandt, Rudolf Brandt, Hoven, Gebhardt, Mrugowsky, and Sievers, and life imprisonment on Fischer, Genzken, Handloser, Rose, and Schroeder; varying terms of years were given to defendants Becker-Freyseng, Beiglboeck, Oberheuser, and Poppendick.

The English-language transcript volumes are arranged numerically, 1-30; pagination is continuous, 1-11538. The German-language transcript volumes are numbered 1a-30a and paginated 1-11756. The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Several hundred pages are added to the transcript volumes and given number plus letter designations, such as page number 1044a. Page 1 in volume 1 (English) is preceded by pages numbered 001-039, while the last page of volume 28 (English) is followed by pages numbered 1-48.

Of the many documents assembled for possible prosecution use, 570 were chosen for presentation as evidence before the tribunal. These consisted largely of orders, directives, and reports on medical experiments or the euthanasia program; several interrogation reports; affidavits; and excerpts from the *Reichsgesetzblatt* (the official gazette of Reich laws) as well as correspondence. A number

of the medical reports were accompanied by series of photographs and charts of various experiments.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement on the location of the original document of the exhibit. The certificate is followed by the document, the actual prosecution exhibit (most of which are photostats), and a few mimeographed articles with an occasional carbon of the original. In rare cases the exhibits are followed by translations or additional certificates. A few exhibits are original documents, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
301	NO-1314	410	NO-158
307	NO-120	441	NO-1730
309	NO-131	443	NO-890
310	NO-132	451	NO-732
357	1696 PS	462	NO-1424
362	628 PS	507	NO-365
368	NO-817	546	NO-3347
403	616 PS		

No certificate is attached to several exhibits, including exhibits 433, 435-439, 462, 559, and 561. Following exhibit 570 is a tribunal exhibit containing the interrogation of three citizens of the Netherlands. Number 494 was not assigned, and exhibit 519 is followed by 519a and 519b.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, *Reichsgesetzblatt* excerpts, and other items. There are 901 exhibits for the defendants. The defense exhibits are arranged by name of defendant and thereunder by exhibit number, each followed by a certificate wherever available.

The translations in the prosecution document books are preceded by indexes listing prosecution document numbers, biased descriptions, and page numbers of the translation. They are generally listed in the order in which the prosecution exhibits were introduced into evidence before the tribunal. Pages 81-84 of prosecution document book 1 are missing. Books 12, 16, and 19 are followed by addenda. The document books consist largely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document numbers, description, and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There are several unindexed supplements to numbered document books. Prosecution and defense briefs are arranged alphabetically by names of defendants; final pleas and defense answers to prosecution briefs follow a similar

scheme. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

The English-language final pleas, closing briefs, and replies to prosecution briefs of several defendants are missing, as are a few German-language closing briefs and replies to prosecution briefs.

At the beginning of roll 1 are filmed key documents from which Tribunal I derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the Charter of the International Military Tribunal, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of the members of Tribunal I and counsels.

These documents are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by summaries of the daily proceedings providing an additional finding aid for the transcripts. The exhibits are listed in an index, which notes type of exhibit, exhibit number and name, corresponding document number and document book and page, a short description of the exhibit, and the date when it was offered in court. The official court file is indexed in the court docket, which is followed by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of prosecution and defense exhibits already microfilmed or opening statements of prosecution and defense, which can be found in the transcripts of the proceedings.

The records of the Brandt case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the International Military Tribunal, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; and records of the Milch case, M888, the List case, M893, the Greifelt case, M894, and the Ohlendorf case, M895. In addition, the record of the International Military Tribunal at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office: 1950-53), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion picture records and photographs of all 13 trials and tape recordings of the International Military Tribunal proceedings.

John Mendelsohn wrote these introductory remarks and arranged the records for microfilming in collaboration with George Chalou.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 10

Target 1

Volume 25

June 16-19, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 1 TRIBUNAL I
U.S. vs KARL BRANDT et al
VOLUME 25**

**TRANSCRIPTS
(English)**

16-19 June 1947 pp. 9233-9620

Official Transcript of the American Military
Tribunal in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nuernberg, Germany,
on 16 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.
The Honorable, the Judges of Military Tribunal I. Military Tribunal I
is now in session. God save the United States of America and this hon-
orable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, have you ascertained if the defendants
are all present in court?

THE MARSHAL: May it please Your Honor, all the defendants are
present in court except for the defendant Oberheuser, who is absent due
to illness.

THE PRESIDENT: Has there been a medical certificate filed?

THE MARSHAL: For the defendant the proper medical certificate
signed by the prison surgeon will be filed later.

THE PRESIDENT: The Secretary General will note for the record the
presence of all the defendants in court save the defendant Oberheuser,
who is ill, and proper medical certificate will be filed later.

MR. HARDY: May it please the Tribunal, last week the witness Josef
Tschofenik arrived here in Nuernberg from Klagenfurt, Austria. Klagenfurt
is in the British zone in Austria. The witness Tschofenik will be unable
to stay in Nuernberg any extended length of time. The prosecution had
anticipated that rebuttal would be here by this week but unfortunately we
were a little bit optimistic. The prosecution requests that we be per-
mitted to call the witness Tschofenik upon the completion of testimony
of Dr. Ivy and the testimony of the defendant Beiglboeck, so that he may
return to his home without any further delay.

THE PRESIDENT: Your request is, counsel, that this witness
Tschofenik be called after the completion of the testimony of the defen-
dant Beiglboeck?

MR. HARDY: Yes, Your Honor, or whatever is convenient for the
Tribunal.



THE PRESIDENT: Well, that is very reasonable. Your request will be granted. The witness may be called out of order after the completion of the testimony of the defendant Beiglboeck.

MR. HARDY: The prosecution will file due notice with the defense counsel.

THE PRESIDENT: The Tribunal will now proceed with the further cross examination of the witness, Professor Ivy. I note that Dr. Nelte desires fifteen minutes to cross-examine the witness. The Tribunal will now hear the cross examination by Dr. Nelte.

DR. NELTE: Mr. President, first representing Dr. Servatius, I should like to ask the rest of the questions which he did not have the opportunity to ask on Saturday. When asked, he stated that he had another half hour's questions to ask. I ask the Tribunal to rule whether or not I may ask these questions in Dr. Servatius's stead.

THE PRESIDENT: Dr. Nelte may cross-examine the witness on behalf of his associate, Dr. Servatius. We will allow three quarters of an hour for Dr. Nelte's cross-examination.

DR. ANDREW IVY - Resumed

CROSS-EXAMINATION (Continued)

BY DR. NELTE:

Q. Professor Ivy, according to your testimony, there were two groups of conscientious objectors, the ones who repudiated for idealistic reasons and the others who repudiated war services per se. The latter group was sent to prison and the first formed an organization that performed public service. Is that correct?

A. It is not correct just as you have expressed it. There is one group that refused to render any sort of public service or to cooperate in any way and that particular group is confined. There is another group that is willing to do various things. Some of them are willing to give service in the Medical Corps of the army. Some of them are willing to give service in the Quartermaster's Department. Some are not willing to be connected with the armed forces in any way but are

willing to give public service in a state hospital as an orderly or male nurse. They are willing to give service in preventing forest fires and in other ways.

Q. Then one of these duties in the way of public service participated in by this second group of conscientious objectors was the duty to serve in medical experiments. Is that not so?

A. Yes, they volunteered on occasion to serve as subjects in medical experiments. They thought by so serving they would contribute to the advancement of medical knowledge which would be of general service in taking care of sick and afflicted people.

Q. Now, in order to receive a statement of their consent which would be necessary for the experiments, were those who had declared their readiness to participate in any experiment informed as to what the experiment would be like?

A. That is correct.

Q. How was this done? In particular, was this done by a doctor or by some official?

A. The doctor would write out the objective of the experiment, its nature, and describe any hazards, if any, attached to the experiment, and then this would be submitted to the prospective volunteer generally by means of the lay supervisor of the station wherever these conscientious objectors might be. Then, when the conscientious objector volunteered and came to the station where the experiment was to be carried out, then a physician would, by word of mouth, explain the objective and nature of the experiment.

Q. You say the doctor told him the purpose and tasks involved in the experiment? I should like to take a concrete example. In the case of malaria experiments, of which you know, were for example—

A. The malaria experiments were not performed on conscientious objectors.

Q. They worked with prisoners and I assume, from your previous testimony, that the prisoners also were informed and oriented. Is that

not so?

A. Yes, and before they volunteered.

Q. Well, were these prisoners in the malaria experiments told that they would run a high temperature?

A. Yes.

Q. Were they also told that the experimental subjects would suffer severe complications, for instance, a severe septic thrombosis, or that their heart muscles would be affected?

A. They were told all possible hazards. As a matter of fact, they were told that they might suffer relapses for a couple of years. And I might say that in the United States in the South malaria is quite a common disease and most people know what the disease is like. They hardly have to be informed regarding the symptoms of malaria.

Q. Do you believe that the experimental subjects, who are laymen after all, really have a clear conception of what the doctor tells them about the symptoms of the disease they are about to suffer?

A. In the case of malaria I am quite sure that they do have a very clear idea. As a matter of fact, the first group of prisoners had the chills and various symptoms of malaria. The other prisoners in the penitentiary obviously heard about these symptoms and they later volunteered to serve as subjects. As a matter of fact, there were more volunteers in the penitentiary to serve as subjects than could be used and that is the situation today, even though the malaria experiments have been going on now since October 1944.

Q I simply want to ascertain whether in all the experiments the person who gives his consent really is aware of the extent of what he is confronted with. Let us say in the case of typhus; were these potential experimental subjects given a clear picture of what they were confronted with through pictures and demonstrations?

A Do you mean the subjects who volunteered to receive the typhus vaccine to which I referred? All they had to fear there was the same sort of reactions that are obtained when one receives typhoid vaccine and almost everyone in the United States has received injections of typhoid vaccine of some sort of analogical substance. I know of no situation in which the hazards of a medical experiment cannot be satisfactorily explained to and understood by a prospective volunteer.

Q That would depend on how high the intellectual level of the experimental subject is. I should think that in prisons there are people who are simple and do not have a general education and whose intellectual ability is perhaps not quite so great as the Doctor supposes. Is that not possible?

A I suspect or would believe that the doctor would take that into consideration.

Q Well, we shall come back to that. Now, in every experiment there are various experimental series and among others a series embracing control experiments. Is that not so?

A Not necessarily.

Q But that is customary; isn't it?

A It depends on the nature of the experiment, sometimes the preceding animal work serves as the control.

Q In this trial we have heard that if one is aiming at a specific result involving the efficacy of a vaccine, one series is vaccinated with a known vaccine, then later with another series and not given a protective vaccine but is nevertheless infected. It seems to me that this is the only way of having any comparison; is that not also your practice?

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9237

A That depends on the nature of the control, whether you give virulent virus or organism. We do not consider it ethical to give virulent virus or organism to non-protected persons. When you develop a typhus vaccine, we follow the development of anti-bodies in the body of the patient given the vaccine.

Q Then you testify that you had no control series at all that was infected with virulent bacilli?

A That is correct.

Q You said that the experimental subjects could leave the experiment at any time?

A Yes.

Q Does this not contradict the contents of the statement of consent, according to which the persons who consents must follow all the rules and orders?

A No, not necessarily.

Q But if he has to follow all the orders that the Doctor gives him, then he cannot leave the experiment?

A Well, he does not agree not to express the desire to leave the experiment at any time. As a matter of fact, I have indicated that to my knowledge no volunteer has expressed the desire to leave an experiment.

Q But, it is possible that we shall not always have so many idealists as experimental subjects; as one of the basic preconditions you stated that it was the experimental subject's right to withdraw from the experiment?

A That is right.

Q Now what about the case of such a withdrawal when the experimental subject is already infected, already has a fever; is it not from the practical point of view impossible for the experimental subject to withdraw he has once taken this first step?

A In the case of malaria, that is true but that not true of all cases.

Q It was precisely in the case of malaria that I wanted to show that the possibility of withdrawal does not for practical purposes in many cases exist at all.

Professor, do you know the name of Professor Leibbrandt?

A Yes, I do.

Q Do you consider Professor Leibbrandt a conscientious and authoritative scholar?

A I am not familiar with all of his writings and saying; I consider him to be a conscientious man, yes.

Q Do you believe that his attitude toward medical ethics is a good and correct one?

A I am not familiar with his attitude toward medical ethics.

Q Professor Leibbrandt was called before this Tribunal as an expert witness by the Prosecution and questions regarding professional medical ethics in the field of research were put to him. You have here testified that the prisoner's statement of consent, prisoners in American prisons, were to be regarded as volunteer statements of consent and that from the profession ethical point of view there could be no misgiving regarding such an act of consent, nor about having the experiments carried out; is that so?

A Yes.

Q I should like to put to you what the other prosecution expert witness said regarding this point before this Tribunal. He was asked:

"Witness are you of the view that a prisoner, who has been in prison for over ten years, will give his consent for an experiment if he receives no advantage from this; do you consider such consent to have been voluntarily given?"

The expert witness answered: "No, according to medical ethics that is not the case, because the patient or the prisoner first of all finds himself in a state of coercion, since he is in preventive custody and secondly because he is a lay-man and has no way of calculating the

effects of an operation on himself. As a lay-man, he is simply not in a position to do that."

Question: "Are you of the view that eight hundred prisoners, who are detained at various places and who give their consent for experiments do so voluntarily?" Answer: "No."

Question: "You are not answering that in consideration of whether or not the experiment leads to lasting or only temporary injury to the prisoner?" Answer: "Even in the last case, my answer is still no."

Question: "If such persons are infected with malaria, because they have declared their readiness; do you consider that possible?" Answer "No, because such a voluntary statement of consent is not right from the point of view of medical ethics. These men, as prisoners, find themselves under a state of coercion."

Q (Continued) Thereupon the witness was shown the magazine Life, 4 June 1944, and this is Document Karl Brandt No. 1. In this document which I wish to touch on very briefly it says that in the United States Prison in Atlanta, in the State Prison in Illinois, and in the Reform School in New Jersey, roughly 800 prisoners have declared their readiness to have themselves infected with malaria so that doctors could study the disease. And, in a further passage in this document it says that the malaria experiments in penitentiaries have shown that malaria is still a very serious medical problem and it says further on page 46 of the report: "Severe chills are the first symptoms of malaria. The above patient is an inmate of the Atlanta Penitentiary where malaria experiments were begun and developed." Then below, underneath is the last picture under which the caption is "fever was as high as 106°, severe chills 20 to 60 minutes. One of the cases was allowed to proceed to a late stage before drugs were given to combat it." After the expert had seen this report, he was asked, "Please give your expert opinion on this experiment as regards medical permissibility." Professor Leibbrandt answered, "I cannot change my previously stated opinion about medical ethics involved. I am of the opinion that such experiments as these are an ill chosen form of biological thinking. And I point out particularly that when I made my testimony just now I agree with Ebermeier, the Jurist, from his book "Der Arzt in Recht", and I also pointed out that the patient when giving such approval cannot calculate the consequences of having given his consent and if on the basis of my own experience as a malaria therapist and as a psychiatrist, in which capacity I am accustomed to giving malaria cures to paralytics, then from this point of view I must say that malaria is a very serious disease because it has complications as a consequence, for instance severe septic thrombosis or effects on the heart muscles that have death as a consequence. And, it is my opinion that we are not dealing here with the infection of someone with a little sniffle but with a very serious disturbance

which theoretically always may have death as a consequence. And in view of this such experiments should be carried out on guinea pigs and not on human beings."

Will you please say whether this attitude of Professor Leibbrandt does not have an ethical foundation.

A I do not agree with that statement of Professor Leibbrandt. First, the prisoners, the experience with our prisoner volunteers in the United States is a fact showing that that does not hold and, secondly, he assumes that prisoners cannot be motivated to take part in medical experiments by humanitarian incentives. This is contrary to our experience.

MR. HARDY: Your Honor, I might ask defense counsel just what he intends to prove by this examination. With the exception of three questions, the questions and answers which have been given here yesterday have been covered on Friday and Saturday by Dr. Servatius himself. Seems to me that Dr. Nelte here has wasted thirty-five minutes. Can't he get on to his point and finish the examination that Dr. Servatius has ably taken up on Saturday.

DR. NELTE: Dr. Servatius did not approach this question. I think we are wasting time at any rate, that is the way the interpreter translated Mr. Hardy's words. If we accentuate the discussions to the questions that the defense counsel is asking in his conviction they are of definite importance. Mr. Hardy wants to know why I am asking these questions -- for the following reasons: Professor Leibbrandt

THE PRESIDENT: Counsel, it appears from the testimony of the witness that he does not in all respects agree with the opinions of Dr. Leibbrandt who testified here on behalf of the Prosecution. Seems to me that that matter, in view of the press of time, need not be expiated upon further since you counsel have asked for so much time which has been accorded. The fact that there is a difference of opinion of the two expert witnesses on behalf of Prosecution is clearly before the Tribunal now.

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DR. NELTE: Quite so. That was the purpose of my line of questioning and that's the reason I wanted to protest against the statement that this examination of the witness by me was a waste of time.

THE PRESIDENT: That is a matter for the Tribunal to determine entirely, doctor. Proceed.

BY DR. NELTE: I have one last question to ask in behalf of Dr. Servatius:

Professor Ivy, you said that for you and for doctors in general the Hippocratic oath is the principle according to which you act, in that so?

A Yes, that expresses the basic ideas.

Q In connection with this trial you worked out a basic policy for the permissibility of experimentation and you regard this policy you worked out of general validity and hold it to be necessary. Because the Hippocratic oath contains no precise statement on these matters of human experimentation became of importance only in the course of relative modern medicine, is that not so?

A Yes.

Q Then this general statement of ethical policy that you testified to here is not of eternal validity but is conditioned in terms of time and in terms of space and subject to certain inevitable changes that humanity goes through, is that correct?

A No. I believe the oath of Hippocrates teaches a fundamental basic truth that is good for all time, namely reverence for life. Just as the principle of the golden rule teaches a moral and ethical principle that is good for all eternity or for all time.

Q You are correct in saying the basic principle of ethics is reverence for life. That is true for the doctor and is true also for all man. In this I agree with you, do I not?

A I presume so.

Q However, you know that every State requires its soldiers

in times of war to render its opponents harmless and to kill them.
Is that not so? The State releases a soldier from a soldier's highest ethical principle, this principle of reverence of human life, and it does so morally and with regard to penalty.

A Defensive war seems to be a necessary evil but even in war a physician takes care of soldiers, be he friend or foe, with us of the medical profession is an exception in war time.

Q I simply want to make it clear, and I don't think we are of two minds in this matter, that the State has the possibility of releasing human beings from their moral and legal responsibilities if it does so in the interest of the State, isn't that so?

A Yes, in the United States you don't have to fight if you believe that it is wrong.

Q I doubt whether the translation came through correct. Would you please repeat your answer, doctor? I asked whether or not we are of one mind in our belief that the State has the right for reasons of national necessity because of a state of war to free its citizens from moral and legal responsibility and you said

A. I believe it does, but in the United States if a person believes it wrong to fight and to kill people in the course of battle, he does not have to take up arms. We have conscientious objectors in the United States to which I have already referred.

Q. Do you consider the actions of the conscientious objector to be as ethically pure as the actions of the soldier?

A. I do.

Q. Then you are saying that men who follow the orders of the state, namely the soldiers, and men who refuse to follow those orders, namely the conscientious objectors, are ethically on the same level?

A. I do, although I do not agree with them.

Q. Would not the absolute affirmation of the person's right to refuse to serve in the war lead to the ultimate dissolution of the state and hence to the state's inability to defend itself?

A. Well, some believe that war is futile and they think they can defend that position. Others believe that defensive war is necessary and that aggressive war is an evil.

Q. Have you ever seen a case in history where a state admits that it itself is carrying on an aggressive war? Do not all states insist they they are carrying on a justified and legal war?

A. That does not make their claim true.

Q. But the citizen of a state must decide whether what he is doing is good or evil. Would a citizen of the United States believe his own state or believe the views that he hears over the radio from Germany or France?

A. We have difference of opinion in the United States and we tolerate that difference of opinion.

Q. I am asking whether the citizen, as a simple citizen

is more or less obliged or coerced to hear what the state tells him. If, for example, he is called to arms; How is he to decide whether the reasons for the government's decision are good or bad?

A. In a democracy, the citizens elect their own legislators who determine that. Totalitarianism and democracy are two different worlds of thought and behavior and it is difficult to reconcile them.

Q. Must not the citizens of totalitarian states obey their governments?

A. I do not believe that they should.

Q. Do you mean to state that the citizen of any totalitarian state should refuse to obey the orders of his government?

A. I agree.

Q. In that case, witness, no further questions.

THE PRESIDENT: Did Dr. Steinbauer desire to address the Tribunal?

DR. STEINBAUER: (Defense Counsel for the defendant Beiglboeck): Mr. President, I have purely medical questions to put to the witness concerning themselves solely with the sea water case. I ask that I like the other counsel be permitted to ask these questions through my client, apart from a few general questions which I am going to put myself.

THE PRESIDENT: Well, counsel, your client may propound purely scientific and medical questions as Dr. Ruff was allowed to the other day. We shall finish first with these shorter cross examinations and then proceed with your questions, but I noticed you rise in your place and I thought perhaps you had some matter to call to the attention of the Tribunal. Cross examination by yourself in behalf of the defendant Beiglboeck will be taken up after the shorter cross

examinations are completed.

Does Dr. Flemming desire to cross examine the witness for fifteen minutes?

We will hear from Dr. Flemming.

DR. FLEMMING: Dr. Fritz for Dr. Rose desires to ask a few questions in this connection also.

THE PRESIDENT: I understand that, Dr. Flemming, but we will hear you now for fifteen minutes if you desire to cross examine the witness.

BY DR. FLEMMING: (Defense counsel for the defendant Krugowsky)

Q. Professor, is it an offense against the professional duties of a doctor, in your opinion, if a doctor refuses to help a patient solely because the patient is an enemy of the state?

A. No, I do not believe that a doctor should refuse medical services to a person because he is an enemy of the state or even an enemy of the doctor.

Q. Such refusal of medical services would then be an offense against the medical and professional duties of the doctor, in your opinion, would it not?

A. I believe so.

Q. A doctor who expressed such an opinion - would you deny him the right to lay down policies for correct ethical medical behavior?

A. I answered my statement because I believe his acts were contrary to the teachings of medical ethics.

Q. Are you familiar with Hippocrates' works, or only with his oath?

A. I am familiar with some of his works, not all of them.

Q. In particular, do you know Hippocrates' fifth letter?

A. No, I do not.

Q. If I tell you that Hippocrates stated in his letter #5: "I shall not have any advantage from the richness of the Persians nor shall I treat a Persian because he is an enemy of the Greek state." Now, if Hippocrates says this would you still be of the opinion that Hippocrates, who expressed such an opinion, is the right man for lying down the basic principles of medical ethics?

A. No, that is not coincident with practices today. I don't know that he said that.

MR. HARDY: May it please the Tribunal, if Dr. Flemming wishes to refer to any of the works of Hippocrates, I suggest that he make them available to Dr. Ivy prior to questioning thereon.

THE PRESIDENT: Counsel simply said "If Hippocrates said that what was the witness' opinion of the statement." It was based purely on an assumption.

Counsel may proceed.

BY DR. FLEMMING:

Q. Mr. President, the question was not hypothetical. Rather, Hippocrates actually did say that in his letter #5. Unfortunately, I cannot put the passage to the witness because I have it only in a German text.

Witness, in your testimony you have said that even today the oath of Hippocrates is still the basic policy for medical behavior. Let me ask you now, what role does the oath of Hippocrates play in American medicine? Does the doctor in America take the oath of Hippocrates?

A. When he graduates from some medical schools he does, other not.

THE PRESIDENT: Counsel, if you have, in a reputable German translation, the letter of Hippocrates which you mention, you may read that portion of the translation into

the record giving the volume, the page and the work in which it is found.

DR. FLEMMING: Because this is in German I did not bring it along with me, but I can do so later if you wish.

THE PRESIDENT: I am simply affording counsel the opportunity to do that if he desires.

BY DR. FLEMMING:

Q. Witness, I have put the Oath of Hippocrates in evidence in this trial, first in the classical version and, secondly, in the version that is used in France. The two versions are radically different. Therefore, I should like to know what version of the Hippocrates Oath is used in America? Can you tell me whether it is a literal translation of the ancient oath or is it a new formulation?

A. According to my best recollection, it is a translation of the original oath. The American Medical Association, however, has developed its basic principles to apply to modern conditions, but the basic principles have not been altered.

Q: Then the Hippocrates Oath that is taken in America is a further development of the ancient Hippocrates Oath and incorporates modern conceptions, if I understand you correctly?

A: The principles of the Medical Ethics of the American Medical Association is a document of some 5,000 to 10,000 words. Each principle of the Oath of Hippocrates is developed to indicate how they apply to modern condition of medical practice, how they apply to the choice of students for entrance into medical school, and how they apply to group practice, the practice of industrial medicine, and other economic and social conditions that did not exist in the time of Hippocrates. "The basic principle of reverence is life," and that the welfare of a patient is the prime interest which is maintained through the development of the ethics of the American Medical Association.

Q: If I understand you correctly the ethical standpoint of the medical profession is, so to speak, codified in American, and the Hippocratic oath was simply taken over to express the reverence for human life and the principle that the patient who is under the doctor's care should not be done any injury by the doctor, is that correct? So that it is not the Hippocratic Oath, but the codification of the professional medical ethics, according to the doctor in America, how to determine his behavior?

A: No, I said the original oath of Hippocrates is served as a basis upon which have been developed the details of medical practice as it is performed under modern conditions.

Q: Then Professor, I must read the Oath of Hippocrates to you in the classical version. You will see from this that the Oath of Hippocrates in the classical version really is not a codification of medical ethics, but is the contract of a pre-med student with this teacher, and that only incidentally in this Oath are a few ethical elements introduced. It reads as follows: "I swear by Apollo, the doctor, and by Asklepios and Hygieia and Panakeia, and by all the Gods and goddesses for whom I bear witness to the best of my ability and best of my judgment I take the following Oath and accept the following responsibility: I shall reverence my teacher in this art as I

revere my parents." This is undoubtedly a point of view that the doctor does not demand today, "And if he is in need he shall partake of my goods, also his descendants shall do so. I shall regard him as my brother. I shall teach my brothers this art if they wish it to without payment and without any contract." All the pertinent science I shall give to my own sons as I shall give them to the sons of my master, and I shall give the same knowledge to the students in the same grade and stand under the medical law. However, to others I shall not give this knowledge." Now, Doctor, I think you will agree on these versions of the Hippocrates Oath, that they are impertinent and out of line with that?

A: I do not agree with that interpretation, that part of the Hippocratic oath directs medical educators today to be careful and to exercise judgment regarding the intellectual ability and moral character of men that are permitted to study medicine.

Q: Professor, this part of the oath does not concern the medical teacher, but the medical students who accepted these obligations vis-a-vis his master?

A: The oath continues, "The prescriptions to make life easy for the patient I shall regard and I shall avoid doing what can harm or injure the patient"?

A: Yes, that indicates a reverence for life, and that you should do nothing in the way of therapy which you know will harm the patient.

Q. It is precisely this part of the Hippocratic oath that is missing in the French version. From this it can be seen that the various conceptions of the doctors' medical ethics and what his obligations are differ from time to time vastly and that the Hippocratic oath contains nothing but general principles which as you can see from this letter of Hippocrates, which I am going to read to you, were not regarded even by Hippocrates himself in the way that they are regarded and held to be necessary today. In this letter to Hippocrates it says:

"I am not justified in taking advantage of the richness of the Persians nor in treating barbarians who are enemies of the Greek people or freeing such barbarians from disease."

That is the fifth letter from Hippocrates and you have already said that you consider that such an attitude cannot be brought into or is consonant with the basic principles of medical ethics, is that so?

A. Yes, that is not coincident with my principles of the medical ethics, as in reverence for life, whether that life be friend or foe, when it comes to treating their disease and sickness.

THE PRESIDENT: Counsel, you will read into the record the title of the book, the author, and the page upon which that quotation is read from.

DR. FLEMING: This is the "Hippocrates Fibel", excerpts from Hippocrates Works, editor Dr. Richard Kapferer, Munich and Bad Woerishofen, 1943, Hippocrates Publishing Company, Marquardt and Co., Stuttgart.

WITNESS: I might add that I doubt whether Hippocrates wrote that letter.

THE PRESIDENT: Will you give the page of the volume on which that letter may be found, counsel?

DR. FLEMING: Page 307; the title in German is "Hippocrates Fibel".
I have no further questions, Your Honors.

THE PRESIDENT: The Tribunal will now be in recess for a few minutes.

THE MARSHAL: Persons in the courtroom will please find their seats.
The Tribunal is again in session.

THE PRESIDENT: Dr. Fritz on behalf of the defendant Rose may cross-examine the witness. Dr. Fritz, I think, asked for fifteen minutes for cross examination.

DR. FRITZ (For the defendant Rose): Mr. President, the assumption that I asked for fifteen minutes is an error. I asked to cross-examine the witness for one hour.

THE PRESIDENT: According to my schedule I do not think that much time can be allowed, Doctor. You may have half an hour in any event.

DR. FRITZ: Your Honor, there is another matter I want to clear up. I have purely medical questions to ask of the witness and in addition there was little time during the last few days to discuss this question with the defendant Rose. In order to utilize the time and in order to be able to finish I would like to ask your permission for the defendant Rose to ask the medical questions himself of the witness.

THE PRESIDENT: The defendant Rose may propound the medical questions to the witness on cross examination. The defendant Rose may leave his place in the dock and assume his position beside his counsel.

BY DR. FRITZ:

Q. Professor, did I understand you correctly that you said that the experimental subjects of Dr. Reed, in the yellow fever experiments, were the doctors who conducted the experiments and members of the American armed forces, and outside of the fatalities of the physicians there were no fatalities in these yellow fever experiments?

A. Yes, that is according to my information.

DR. FRITZ: Your Honor, the defendant Rose thinks that the questions which we intended to ask, because of the limit of time, will have to be shortened to such an extent that it would be better if he could begin the cross examination immediately in order to ask the questions from a medical point of view, and ask them more briefly and use up less time.

THE PRESIDENT: As I stated, the defendant Rose may examine the wit-

ness as to purely medical questions. He may begin to propound those questions now, if his counsel desires.

BY THE DEFENDANT DR. ROSE:

Q. How many members of the American armed forces were used in the yellow fever experiments of Reed? How many of them were there?

A. I do not know.

Q. Is it not correct that, outside of the two persons whom you mentioned, only coolies who had volunteered for payment were used?

A. According to my information, the two doctors whom I mentioned, Carroll and Lazar, and then American soldiers. I did not know that there were any natives used.

Q. Well, you do not know about it?

A. We do not have coolies in Cuba or in the West Indies.

Q. How large is the mortality in yellow fever?

A. How large? You mean---

Q. What is the mortality rate?

A. That is in epidemics or in the experiments of Walter Reed?

Q. Yellow fever in general.

A. I think it about fifty percent, if I recollect the figure correctly. It varies.

Q. Is it not correct that in the case of all races, with the exception of the Negro, the mortality rate is eighty to ninety percent?

A. I remember that it is quite high.

Q. Is it not correct that the number of experimental subjects in the Reed experiments was more than thirty?

A. I do not remember.

Q. Then there is no point in asking further questions about it if you are not informed about it.

You told the prosecution in regard to pages 187 and 188 from the Philippine Journal, regarding the plague experiments by Strong - you said that the experimental subjects had a temperature of one degree Fahrenheit, and that the harmlessness of the experiment was absolutely

no surprise to the author because he could foretell the successful results. Did I understand you correctly?

A. On the basis of his animal experiments.

Q. For what reason were criminals who had been condemned to death used for these experiments, in view of those facts?

A. I do not know.

Q. May I ask for Exhibit 513, please. The prosecutor, on Friday, read from this exhibit. I want to continue exactly at the same place where he stopped reading:

"Surprising as it may seem, the injection of these large amounts of the living plague organism have not given rise to any severe reactions. A few hours after the inoculation the temperature of the individual usually begins to rise. When the injection has been given in the morning, the fever may, on the evening of the first day, reach 38.8 to 39.4, but rarely has it touched 40 degrees Celsius."

Would you not like to change your testimony after hearing this, namely, that the temperatures were higher than one degree Fahrenheit? For 40 degrees Celsius is 104 degrees Fahrenheit.

A. As I recall, I did not specifically specify one degree. I believe I qualified by saying approximately one degree or so. If I specified only one degree, then I should change my testimony to say approximately one degree or so.

Q. And from this wording, "surprising as it may seem", does not one have to gain the impression that the assumption that the injection of living plague bacilli could not have any unfortunate consequences was not certain by any means at the beginning of the experiment?

A Well, I interpreted the expression "surprisingly as it may seem" as a rhetorical expression for the reader and not necessarily for Dr. Strong.

Q Do you know that the experiments conducted by Strong were criticized?

A I have never heard them criticized.

Q But that is mentioned in the further papers by Strong, in which he discusses these criticisms.

A No, I have not seen that.

Q The experiments by Strong were conducted in 1905, and they were published in 1906. This injection with living plague bacilli was one of the most important advances in the fighting of plague. Can you tell me the reason why it took twenty years before this discovery was introduced into practice?

A No, I cannot. That is true of a number of medical discoveries. For example, sulfanilamide had been made, before it was applied in practice, some ten to twenty years.

Q Yes, but that was for because the chemical-therapeutical qualities of sulfanilamide were not known. After these qualities were known, it did not take twenty years before it was used in practice. But these details about the development of plague vaccines are not known to you personally?

A Not that Colonel Strong was criticized for his work.

Q And also not the difficulties, why it took twenty years before plague vaccines were introduced into medical practice?

A The specific reasons in this case are not known to me, but I do know that in other cases there is quite a lag between the original discovery and its application in practice.

Q So it is not known to you that the criticism regarding the danger of this method and the possibility that the plague bacilli could become virulent again was the reason for waiting twenty years, for further scientific development?

A I am not familiar with that.

Q Do you know that Strong himself, in further publications, reported about the application of this method with monkeys, which died of the consequences of this injection of the plague vaccine?

A I am familiar with the fact that he used other animals in his studies, but I do not recall the details.

Q Well, I shall go over to another point.

Moreover, from Volume VII of the Philippine Journal of Science, you submitted pages 290 and 291. That is the paper by Strong regarding beriberi. Did you read that paper yourself?

A Yes, I read the paper, and then I had photostats made of these two pages indicating that volunteers were used.

Q In addition, you also discussed the matter with one of the authors of this paper, did you not?

A That is correct; Dr. Crowell.

Q Did I understand you correctly, that you said in your testimony on Friday that none of the experimental subjects died?

A Yes, I said that to the best of my knowledge none of the experimental subjects died.

Q And since you read the paper yourself, as you just confirmed to me now, may I perhaps, in order to refresh your memory, ask you to turn to page 379 of this paper? I have put a white sheet of paper in that place. Moreover, the tables 4 to 7 of this paper. Perhaps for the benefit of the Tribunal I may read the important lines.

On page 379 it says:

"The patient gradually sank and died at 2 P.M. on the following day."

THE PRESIDENT: Dr. Rose, from what book are you reading? Will you please read into the record the title of the publication?

DEFENDANT DR. ROSE: The Philippine Journal of Science, Volume VII, Section B, page 379.

BY DEFENDANT DR. ROSE:

Q Further down it says: "Necropsy: One half hour after death."

The tables 4, 5, 6, and 7, which follow page 414, are anatomical presentations regarding this. Will you please convince yourself?

(Volume submitted to witness)

After having looked at this text, would you not like to correct the statement you made that there were no fatalities?

A Yes, there is a fatality. I do not know yet what it was due to, though.

Q I thought you read the paper.

A Yes.

Q Well, now, if you now want to read over all those pages which describe the case history of this man, unfortunately too much of the time that is made available to me for questioning you will be lost. Therefore, I shall now proceed.

Is beriberi a serious disease?

A It depends upon how far it advances.

Q Well, you have read the paper through and therefore you know that the case histories of the 29 patients are described exactly in this paper, and how serious degree of illness these patients had. Do you agree with me that beriberi is a disease which causes serious damage to the heart and to the nervous system?

A Yes, if it is permitted to go to a point where serious damage occurs.

Q Yes, if one lets it proceed to the extent that the patient dies of it, then, after all, it has proceeded pretty far.

The paper says that the experimental subjects could speak neither English nor Spanish, and apparently also not the native dialect which was spoken in Manila, but that one had to speak to them through interpreters in their native dialect. They were apparently illiterates.

Do you consider that persons of that kind are able to judge the significance beriberi experiment?

A I think, so, when beriberi is endemic in the region from which they come.

Q Well, you know just as well as I do that beriberi does not occur in the mountain regions of the Philippines.

A No, I am not sure of that.

Q But in any case you agree with me, that beriberi is such an important problem that the experiments by Strong, from an ethical and scientific point of view, were justified to their entire extent?

A I have heard no criticism of those experiments.

Q And you yourself do not criticize them either? You know the paper after all, do you not?

A Yes. I read the paper the latter part of December, so all of the subject matter is not familiar to me now.

Q But in any case, at the time when you were reading it, you did not have any misgivings about it, did you?

A No; I was primarily interested in finding out whether the subjects were volunteers and whether they were offered a reward. That was the part of the paper which I had photostated.

Q Yes, but after all, in order to make a photostat one first has to have read the paper.

A Yes.

Q Now I want to go over to the malaria experiments in the American prisons. Exhibit 516 contains a written statement which was given to the experimental subjects regarding the danger involved in the experiment before they declared their willingness to participate in the experiment. We are apparently concerned with several different experiments. The experimental subjects had it pointed out to them that they would be infected with the Chesson strain of malaria. Can you tell the Court what kind of a malaria strain that is?

A No, I cannot.

Q But if I tell you that this is a very well-known strain of malaria tropica, can you confirm that?

A I confirm that, but I don't want you to believe that I am an expert on malaria.

Q Will you please tell the Tribunal what the malaria which is caused by plasmodium vivax is called in English?

A Vivax.

Q Is it not called benign tertian?

A Yes, that is right, and it is subject to relapses.

Q What is the scientific name of the type of malaria that is caused by plasmodium falciparum?

A I do not offhand know.

Q Can you confirm to me that the scientific name is malaria tropica, or malaria pernicioosa?

A I do not know.

Q Is malaria tropica considered more dangerous than benign tertian?

A Yes, I am sure of that.

Q The judgment of a Dachau court has been submitted to the Tribunal here. This judgment concerns itself with the malaria experiment of Prof. Schilling. In this judgment it is laid down that 300 to 400 persons during the course of the malaria experiments conducted by Dr. Schilling died or are supposed to have died of the consequences of malaria infection. The prosecution witness Vieweg stated here that Schilling worked only with plasmodium vivax, benign tertian. On the other hand, it is well-known, and you have confirmed that in the American malaria experiments they worked malaria tropica, and we are both in agreement that malaria tropica is considerably more dangerous than malaria tertiana. May I now ask you whether fatalities occurred in the malaria experiments in American penitentiaries?

A If fatalities have occurred, I have not heard of them

Q Did you see the reports about these malaria experiments?

A No, I have not read the reports on the malaria experiments. I just simply know Dr. Arvin, who is supervising the experiments at Stateville.

Q Mr. McHaney, the prosecutor, informed us here that in the American malaria experiment no fatalities occurred. Of course, he did not state where he got this information, and of course he was not under oath either when he made that statement here. But I have to tell you that Prof. Schilling is supposed to have experimented on almost 1,000 experimental subjects. Now does it not even though you are not an expert on malaria, on the basis of your general medical knowledge not appear somewhat peculiar to you that in an experiment with the benign malaria there is supposed to be a fatality rate of 30 to 40% and in experiments with the dangerous form of malaria no fatalities occur?

MR. MC HANLEY: I object to the question being put. It necessarily must be a hypothetical question. I don't think it contains all of the necessary hypotheses to give us any probative value from an answer to the question that has been put. If we do not know the condition of the experimental subjects who are used in the two experiments, if we do not know the methods of treatment given to the two different groups of experimental subjects, and I have particular reference to the proof on the use of pyramidon in Schilling's experiments, if we don't know certain other factors concerning the treatment and the care given the patients, I do not see that an answer from the witness to the question put can have any probative value.

THE PRESIDENT: The objection is sustained.

BY MR. ROSE:

Q Were the natives in the Philippines during the years 1905 to 1912 that is, during the time when Strong was carrying on his experiments there with human subjects American citizens, or from the racial point of view and according to their nationality were they regarded as

non-American?

A I do not know. My recollection of political history in the Philippines Islands is not certain.

Q But in any case you personally are convinced, are you not, that Prof. Strong conducted his experiments with natives, not because he considered them racially inferior, but that he used them as experimental subjects because the government of the Philippines did not make any other subjects available to him, and he personally in the knowledge that his experiments would serve medical research and thus all of humanity, was not very much interested in the nationality of the experimental subjects.

A All I know is that they were prisoners condemned to death, and, according to Dr. Crowell, volunteers.

Q You submitted a document to the Tribunal which was given the Exhibit No. 518, regarding Veintimillas typhus investigations. You said that the experimental subjects were volunteers. May I ask you how you know that? I know the paper very well, and in the paper itself it is not stated.

A I am not sure that I said they were volunteers. It states that for this purpose we selected 48 persons from 30 to 40 years of age and on whom no previous typhus infection was suspected, according to anamnestic or historical analysis.

Q But do you have any other sources or information than the paper itself? Did you speak with Veintimillas himself?

A I fell quite sure that I did not testify that volunteers were used in this article.

Q Then I must have misunderstood you. At least over the microphone that is what I heard, and I made a note of it.

A That may have been implied, the way they were being submitted, and the questions came in, but I know that volunteers were not specifically stated in this particular article, and in the same way they were not specifically stated in the plague experiments of Col. Strong.

And when I found the word "volunteer" was not specifically included in the experiment of Col Strong I called up Dr. Crowell and discussed the matter with him. I could not do that in the case of this article. And I wanted to point out that on page 343 it is stated: "It was obvious that typhus fever in men could be produced by such inoculum, and as we considered it unnecessary to expose human beings to the risk of a certain infection, we therefore relied on guinea pigs for control cases.

Q I am familiar with that. Are you an expert in the field of testing typhus vaccines?

A No, I am not an expert in the field of typhus.

Q But perhaps you know just because of this fact which you just pointed out, namely, on the basis of the fact that no human controls are available, the entire experiment conducted by Veintimillas and of the typhus experts is not considered to have any probative value?

A No, I do not know that.

Q But you do know, don't you, that the reaction of an animal to an infection does not prove anything in regard to what the same infectious material would cause in human beings?

A I do not know that to be true.

Q But you submitted this paper, this article by Veintimillas and in this paper the experiment by Franciscassa is mentioned. He conducted a similar experiment and he used human controls, that is, infected and non-immunized persons. Are you familiar with that experiment?

A I am not familiar with that experiment.

Q But it is mentioned in this paper? Did you overlook it?

A I did not look up the references cited in this paper.

Q But this fact, that he used controls who had not been vaccinated, is mentioned in this paper by Veintimillas, over and above that, do you know that Blanc and Baltazard conducted a number of vaccine tests of that type, in which the persons who were vaccinated were

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infected with virulent bacilli, as well as other control subjects?

Do you know of these experiments?

A. I do not.

Q. Do you know the experiment by Otere, who infected unvaccinated persons with typhus?

A. No.

Q. Do you know the experiment by Yersin and Laval, who infected two coolies successfully with typhus?

A. No.

Q. Do you know the similar experiments by Sergent and his collaborators?

A. No.

Q. Do you know similar experiments by Reitano, Mitchell and Richardson, Sparrow and Lumbroso?

A. No.

Q. Perhaps at least you know the experiment of the Americans, McCalla and Brereton, who infected two persons with Rocky Mountain spotted fever, and in particular do you know why as their experimental subject they took a patient who had had both legs amputated?

A. No, I do not.

Q. Did you ever, at least in American medical journals, read a criticism of these experiments or protests against these experiments?

A. No.

Q. Even not, although now you are concerning yourself with the question of human experiments?

A. Yes.

Q. To return to malaria once more, may I ask you whether you consider it adequate information regarding the danger of an experiment with tropical malaria to say, "While the danger to life from this strain of malaria is small, there is a strong probability of relapses or recurrent malaria fever for a period up to several years after the infection"?

A. I know that that is true, yes.

Q. Yes, and do you consider this information adequate in order to inform an applicant for a malaria experiment who is a layman about the

dangers and risks of such an experiment?

A. Yes, I believe that is adequate.

Q. In any case, you are of the same opinion as I am, namely, that malaria experiments on human subjects, in view of the importance of this problem, are absolutely justified, scientifically as well as ethically, even if they bring with them danger for human life.

A. Provided the subjects are volunteers and the hazards of the experiment have been explained to the extent that they are explained in the malarial experiments we have conducted in the United States.

Q. Well, this principle, that you keep constantly to the voluntary nature of the experimental subjects, you have already explained sufficiently.

Now, I want to ask you only briefly about two other experiments, whether you know them, because in the history of experiments on human subjects they have been widely discussed; first, the experiment by Adler, who infected five cancer subjects with kala-azar, with the result that all five died. Do you consider that experiment ethically justified?

A. I did not follow the first part of that.

Q. Do you know the experiment by Adler, who infected five cancer patients with kala-azar, with the result that all five died?

A. I am not familiar with that experiment, but I should like to know whether or not the cancer patients agreed to this therapy. Generally, when a therapy of this sort is tried, the doctor asks the patient to sign a release. That is customary in performing surgical operations in our country, because there is always a certain amount of danger associated with an anesthetic and an operative procedure, and this was an untried therapy, and I presume the patients were of the nature of volunteers and agreed to have this new treatment applied or tried on them.

Q. Did you ever hear of the treatment of cancer by infection with kala-azar?

A. Yes.

Q. Well, I never heard of it.

Do you consider it in accordance with medical ethics if criminals who are condemned to death are administered a dangerous dosage of medicines so that, in case they should not die of this poisoning, the changes in their liver can be studied after their execution?

A. It did not all come through to me.

Q. Do you consider it to be in accordance with medical ethics if criminals who are condemned to death are administered dangerous doses of medicines so that, if they should not die of this poisoning, the changes in their liver can be studied after their execution?

A. If those prisoners condemned to death have volunteered and if there is good reason to believe that such tests are necessary, in my opinion it is ethical to do that.

Q. All right. Well, you do not object to the experiments themselves, even if they are so dangerous, but all your objections concern merely the one point, namely, whether the patient himself, that is the experimental subject himself, gives his consent.

A. That is the first principle of medical ethics which I explained yesterday in my testimony. There are two other principles that always have to be kept in mind. One is to be sure that the experiment is necessary on the basis of previous animal experimentation and a knowledge of the natural history of the disease, and in this latter case I presume that adequate animal experimentation had preceded the injection of the volunteer prisoner condemned to die in order to indicate that such an experiment was necessary and worthwhile to perform. The third principle of medical ethics was that the experiment must be done carefully, so as not to cause any unnecessary pain and suffering, by adequately qualified scientists, and when there is any prior reason indicating that permanent disability or death might occur then the scientists themselves should be willing to serve as a subject in the experiments.

Q. I have no further questions.

DR. FRITZ: I also have no further questions, Your Honor.

THE PRESIDENT: Dr. Kaufmann, you may cross-examine the witness.

CROSS-EXAMINATION

BY DR. KAUFMANN (For the defendant Rudolf Brandt):

Q. Professor, I will probably have to ask you only one single question. So far we have discussed only the question of ethics as far as physicians are concerned. Now, I should like to ask you to what extent a layman, who is not a physician, who is not a specialist, can recognize from reports, for example, reports by Rascher, what the borderline is between what is admissible and what is not admissible; in other words, I should like to ask you, can a layman recognize whether the professional ethical principles, the three which you mentioned, Professor, were violated when he reads such reports, for example, a report by Rascher?

A. Did you say a report by Rascher?

Q. Yes, a report by Rascher.

A. Well, I believe they can, and I believe that a lay person reading a report of that sort would be stirred to indignation.

Q. All right, but in order to do so, it is probably necessary that he study the report thoroughly, is it not?

A. I do not think so. I think reading the portion of the report where he stated that he held people under water until they died would stir a layman to indignation, should he read that.

Q. I have no further questions, Your Honor.

THE PRESIDENT: How many other Defense Counsel, if any desire to cross-examine this witness, of course with the exception of Dr. Steinbauer on behalf of Beiglboeck. Dr. Tipp, have you any questions?

DR. TIPP: Yes, Your Honor. The questions which I should like to put are only in respect to the sea water experiments, and, therefore, it would be more appropriate if I put them after Dr. Steinbauer has completed his examination.

THE PRESIDENT: Yes, Dr. Steinbauer, you may proceed to cross examine the witness. The defendant Beiglboeck may leave the dock and take his position beside his counsel. You may proceed, Counsel.

CROSS*EXAMINATION.

BY DR. STEINBAUER: (Attorney for Defendant Prof. Dr. Beiglboeck):

Q. Professor Ivy, I want to address two brief questions to you myself. Was the problem of making sea water potable, in which you yourself collaborated very well, was it a contribution to humanity in regard to rescue in sea distress?

A. Yes.

Q. Do you agree with the Englishman Dr. Baker, who wrote a paper about this problem, that every means to be applied to making sea water potable has to be examined in advance very carefully in order to avoid great danger?

A. Yes.

DR. STEINBAUER: Then, I have no further question for the moment. With the permission of the Tribunal, I now ask to have Dr. Beiglboeck cross-examine the witness.

THE PRESIDENT: Just a moment, is the transmission system functioning satisfactorily?

INTERPRETER: Yes, Your Honor.

THE PRESIDENT: In cross examining the witness, Dr. Beiglboeck, avoid arguing with the witness; propound your questions to him in as simple, scientific language as possible, and make your questions not too long. Instead of asking one very long question, it would be more profitable if several shorter questions may be propounded. You may proceed.

CROSS EXAMINATION

BY THE DEFENDANT DR. BIEGLBOECK:

Q. Professor Ivy, how old were you when you conducted the sea water experiment on yourself?

A. Forty-nine.

Q. How much weight did you lose during the experiment?

A. As I recall, in three days it was almost two kilos somewhere between four and five pounds. I did those experiments late in 1942, and I can't be particularly accurate.

Q. Do you mean that you lost this much weight per day or during the entire course of the experiment?

A. During three days.

Q. Only two kilograms, without taking in fresh water?

A. Yes, I took nothing but 240 cc of sea water and 120 calories of food a day.

Q. I must have misunderstood the translation at the time. It was my understanding that during those three days you drank 2,400 cc of sea water.

A. That is correct.

Q. In other words, you only suffered a maximum loss of liquid of 200 cc; is that correct?

A. As I said, I can't be absolutely accurate regarding the amount of weight I lost.

Q. Professor Ivy, is it correct that the speed of dehydration is very important?

A. Yes, that is correct.

Q. If during the condition of thirst one consumes small amounts of liquids, would the speed of dehydration then be delayed or in part equalized or balanced?

A. Yes.

Q. Professor, in the condition of thirst, the body, from its water stores, supplies some water, is that correct?

A. Yes.

Q. Is it also correct that the liver, the skin and the muscle are the stores of water which would cover this water loss first?

A. Yes, during the first day or two.

Q. Professor, is it correct, and do you agree with the opinion of Marx, that the muscles are able to give up to three liters, that is three quarts of water ----

THE PRESIDENT: The translation is not coming through.

Q. Do you agree with the opinion of Marx, that the muscles are able to give up two to three liters, or quarts, of water?

A. In, toto, yes.

Q. Do you know that in the case of people who have cholera, it has been observed that the muscle have lost up to twenty per cent of water?

A. I recall that figure from the literature.

Q. That would be more than four liters, or four quarts.

A. Yes, that checks with my calculations.

Q. Professor, is it therefore correct that when water is lacking, first of all the muscles are affected?

A. I am not sure they are the first to be affected. They do lose water beginning early, but whether they are the first to be affected, I do not know.

Q. From clinical experience with dysentery and cholera, we know quite well that it is predominantly the muscles that give up the water. Do you have any experience in this field?

A. No, but I would agree with your qualification "predominantly."

Q. Professor, if it is correct that the muscle first of all is affected in the condition of thirst, is it correct then too, that the damage caused by thirst, that can be expected first, are the protein deterioration of the muscles?

A. I think that will depend a great deal on whether or not the individual is starving --- how much protein they are obtaining in their ration.

Q. Professor, if a muscle that has lost water is supposed to perform some work, would it work under worse conditions than a muscle that contains a lot of water?

A. It would work under worse conditions than a muscle containing a normal amount of water.

Q. Would it, therefore, be expedient from the medical point of view to expect a muscle that has lost water to work?

A. It could perform work, but not as much as in the normal condition.

Q. Professor, I believe you didn't quite understand my question. My question is -- whether from the medical point of view it would be expedient to expect this muscle to perform some work that it does not absolutely have to perform?

A. The translation is not clear to me.

Q. I did not ask you Professor Ivy, whether a muscle that has lost water can work less well, but I asked you whether it would not be expedient that a muscle that has been dehydrated should be spared any unnecessary work.

A. I agree.

Q. Professor, if the blood pressure is measured after a strain, then the experimental subject has to do some work beforehand; is that correct?

A. That is, to do the amount of work it requires standing.

Q. Yes. Did you convince yourself, Professor Ivy, that in my record of the experiments the blood pressure at rest of all experimental subjects was taken daily?

A. Yes.

Q. Do you leave the possibility open that the blood pressure at strain was not taken in order to spare the experimental subject?

A. That is possible, but I wondered why the blood pressure wasn't taken with the subject prone — lying down.

Q. The blood pressure was measured on the experimental subject in a prone position; during the first period of the experiment also after a strain; and in individual cases toward the end of the experiments we did not take the blood pressure any more under strain because of the existing weakness of the muscle.

A. I understand.

Q. Professor, is it known that in an adult, too, the temperature can rise when he is in a condition of thirst?

A. Yes.

Q. Perhaps I may show you here a paper by Denning from the last century, and I should like to ask you to look at pages 293, 298, and 304, and convince yourself by means of the temperature curves that during the thirst experiment, which lasted for six to seven days, temperatures up to about thirty-eight centigrade occurred.

A: The charts show a temperature up to 37.83 centigrade in thirsting.

Q: Professor, is it well-known that after the administration of a hypotonic table salt solution temperature rises occur?

A: Yes.

Q: Professor, would you, therefore, if such sub-febrile temperatures occur in a condition of thirst, think that it was justifiable to consider such an experimental subject ill or seriously ill?

A: It means that they are considerably dehydrated.

Q: Professor, I believe that these records of Dennig's experiments show that temperatures were observed already on the first and second days.

A: In the experiments in this article?

Q: Yes.

A: According to my interpretation of the charts, on the 3rd and 4th days.

Q: I think that I can remember that in one experiment on the first day there was already a temperature over 37 degrees centigrade.

A: Perhaps.

Q: Professor, is dehydration a condition of lack?

A: Yes.

Q: And does the administration of liquid do away with this lack?

A: The administration of water alone may not do away with the lack; it may require water plus a little salt.

Q: Thus you would consider it expedient in such a case to use salt solutions?

A: Yes, hypotonic.

Q: Professor Ivy, do you know a report in medical literature according to which lasting damage was observed with certainty after a thirst condition was removed?

A: Thirst alone; no.

Q: Do you know such a report as a result of the drinking of seawater?

A: No, except in those cases on a raft at sea, who drank seawater, developed hallucinations, and walked or jumped overboard or died.

Q: Professor, I believe that you have misunderstood me again. I asked you whether after the rescue, that is, after they had been given fresh water, an observation of permanent change has so far been published in any world medical literature?

A: I know of no articles in which, after subjects have experimentally taken seawater in small amounts for short periods of time, have manifested any permanent change.

Q: Professor, is it correct that during the condition of thirst, due to the thickening of the blood, that is, due to the fact that the blood loses water, the circulating amount of blood is reduced?

A: Yes, the blood volume is reduced.

Q: Yes. Professor, from the records of my experiments could you convince yourself that the pulse frequency during the experiment showed a tendency toward reduction?

A: Yes, as I recall, there was a tendency to a reduced rate.

Q: Professor, if the blood volume is reduced and the frequency of the pulse does not increase, is it correct that the minute volume of the heart is reduced?

A: Yes.

Q: Professor, after the heart has adjusted to this smaller minute volume, and after a sudden intravenous administration of liquid of about 1/3 of the volume, would you help that heart with a stimulant?

A: I should not.

Q: But can you imagine that a practicing physician would consider such a thing?

A: Well, perhaps, depending upon the general condition of the patient.

Q: Professor, from the fact alone that a stimulant is used, can one conclude with certainty that there was a weakness of the heart?

A: I do not believe that you can.

Q: Professor, is it correct that one of the symptoms of weakness of the heart is rather a faster pulse rate than a slower one?

A: Yes.

Q: Professor, I believe you have also carefully studied the values for blood pressures which I recorded. Could you convince yourself that in all cases the blood pressure was normal after the experiment?

A: Do you mean after the experimental period?

Q: Yes, that is what I mean.

A: As I recall, there was a tendency for the blood pressure to be normal, although in some cases it was somewhat below what it was before, but not strikingly so.

Q: Did you compare the blood pressure before the experiment with the blood pressure after the experimental period?

A: Yes, that is what I had in mind.

Q: And in doing so you found that the blood pressure at the end of the experimental period was the same as that before the experiment?

A: Essentially so, on the average.

Q: Later I shall come back to those cases which were described as seriously ill here, and I shall discuss the blood pressures in those cases. Professor Ivy, if I tell you that Sterofundin is nothing but Ringer solution, do you still consider it justified, if Sterofundin is used when a thirst experiment is interrupted, to conclude that it was a serious illness?

A: No, I should not conclude that it was, because ...

Q: Professor, ...

THE PRESIDENT: The witness may complete his answer to the question. It is interrupted.

A: No, I should not conclude that because Sterofundin is used the patient, after a thirst experiment, necessarily was in a serious condition; but one wonders why, in such experiments, the material was given intravenously rather than orally.

Q: That was administered because an intravenous administration of salt solution, in accordance with all of the statements in medical literature known to me, influences the liquid content of the body more permanently.

MR. Mc HANEY: I ask that the remark of Dr. Beiglboeck be stricken. He is going on direct examination. He can testify at that time.

THE PRESIDENT: The remarks of the witness were in the nature of testimony on his part rather than a question to the witness. His remarks will be stricken from the record. He will be permitted to take the stand again and make what statements concerning his own actions he desires.

Q: Professor Ivy, would you say that after an intravenous injection of Ringer or table salt solution, chills with sharp rises of temperature are sometimes observed?

A: Not when the technique is good. I have never seen chills and temperature after an intravenous injection of Ringer Solution or sodium chloride solution if the tubing is free and if the solution is free of pyrogenic substance, that is, triple redistilled water is used to be sure that there is no temperature-inducing substance in the water.

THE PRESIDENT: The Tribunal will now recess until 1:30 o'clock.
(A recess was taken until 1330 hours).

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 16 June 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The Secretary General will file for the record the certificate as to the illness of defendant Oberheuser signed by the prison physician which has been received. The examination of the witness may proceed.

DR. ANDRE IVY - Resumed

CROSS EXAMINATION (Continued)

BY DEFENDANT BEIGLEBOECK:

Q. Professor, is it true that on the first day of a hunger-thirst experiment there is a considerable loss of weight?

A. Yes.

Q. Professor, I ask you to take a look at the case records of cases 1 to 32 and to assure yourself that the weights between the 20th and 22nd of August either remain the same or increase somewhat and that from the 22nd to the 23rd of August in all of these cases there is a palpable loss of weight.

A. I looked at the first three charts and I fail to find a weight recorded on the 21st. I find a weight on the 20th, the next weight on the 22nd.

Q. Professor, wouldn't it be nonsensical to begin such an experiment without taking the weight on the first day?

A. Yes, I should say so.

Q. Professor, let me ask you to take a look at Case 1; on the 20th, 64.5, on the 22nd, 64.7, and on the 23rd, 62.2 are the respective weights. Is that correct?

A. Yes.

Q. If the experiment had begun on the 21st should one not assume that from the 20th to the 21st a gain in weight of about two kilograms would have taken place?



A. Did you say a gain of two kilograms?

Q. Presupposing that the experiment began on the 21st; so that the weight on the 22nd is determined already twenty-four hours after the hunger and thirst began, then from the 20th to the 21st the man must have gained about 2 kilograms.

A. Yes, I understand. Yes, because the weight on the 20th is 64.5 kilograms and on the 22nd, 64.2, is the same; hence, there has been apparently no loss of weight between August 20th and August 22nd.

Q. Then, Professor, should you not assume that the experiment began the 22nd if from the 22nd to the 23rd in this case more than 4 points are lost?

A. Yes.

Q. All the cases from 1 to 32 show the same phenomenon as regards the weight. I ask you, please, to look through the charts and assure yourself of that fact briefly.

A: There are some sheets missing.

Q: Professor, so far as I know the file is complete. They were all discussed here before the Tribunal.

A: I cannot find all of the sheets. For example under subject No. 32, the preperiod data are missing. I can answer your question, yes, up to subject No. 32.

MR. HARVEY: I do not believe that the charts and subjects, that then No. 32 contained the first weight, I do not recall when I was questioning Beiglbosck that the chart then contained that and that they started out the first day of the experiment. Maybe that may be helpful.

BY DEFENDANT BEIGLBOECK:

Q: From the 32nd to the 44th, the experiments began on the 1st of September, and the other experiments began on the 22nd of August. I am asking you now whether the experiments began on the 21st or 22nd, and for that reason I shall ask you to look at the individual case records and to compare the weights and to tell us whether the experiments began on the 21st or the 22nd.

A: According to the weight records up to subject No. 32, which is as far as I have been able to follow the cases, indicates that the experiments started on the 22nd. For example on subject No. 32, on page 32, the first date apparently is August 22nd and the weight was 67.1 kilos, and on the 23rd it was 65.4, indicating that the experiment may have started on August 22nd.

Q: Professor, is it so that you can only test the Romberg reflex on someone who is able to stand?

A: According to my knowledge of that test, the way I perform it, it is necessary for the subject to stand.

Q: Then in a deeply unconscious state a subject could not be given the Romberg test?

A: That is correct.

Q: Professor, do you think a person who is deeply unconscious can ask

for water.

A: That depends upon whether they are so unconscious that they cannot speak. An unconscious person can ask for water.

Q: Professor, in the usual linguistic usage in German medicine the word "comat" means a total unconsciousness, such as in a coma diabeticum. I don't know whether the word "comat" in English usage has a wider meaning. Could you please tell us whether you understand the words "Comatose" and "unconscious" to be synonymous?

A: No, unconscious and comatose are not synonymous according to the way I use the terms.

Q: Then you think that the condition here described is not one of deep unconsciousness?

A: What words do you have reference to?

Q: I am referring to the case in which it is said that the Romberg test is positive and that the man is in a semi-conscious state. I want to ask if you agree with me that according to medical linguistic usage the state being referred to here is one of somnolence?

A: That depends upon the meaning of a two plus Romberg. I believe that was your question. I am not accustomed to saying that a Romberg sign is two plus so it may be that the two-plus Romberg could mean that the individual could not stand but when attempting to stand would fall over to the ground so I don't know the meaning of the two plus Romberg.

Q: Professor, let me tell you that the two-plus sign is used when the reflexes can be tested and are strongly positive. Can the Eschner eyeball reflex be tested in a healthy person?

A: Will you repeat the question?

Q: Can you use the eyeball pressure reflex according to Eschner on healthy persons?

A: I don't know what a reflex is according to Eschner.

Q: This is a reflex that affects the rate of the pulse when pressure is exercised on the eyeball.

A: Yes, you can try that test both on conscious and unconscious persons.

That was my understanding of the meaning of the eyeball reflex, but I had not heard the expression "according to Eschner".

Q: It is usually so designated in Germany Professor. You still have the charts before you. Please let us go through a few of these cases together and I want to ask you whether it is your opinion that in these cases water, to wit, fresh water, was drunk. Please turn to case No. 3. Do you think that this patient from the 26th to the 27th and from the 28th to the 29th drank some fresh water, if from the 28th to the 29th he loses only 300 grams weight?

A: That is a small loss of weight which is consistent with taking in some water. The small urinary output, however, is hardly consistent with taking in some water, and when one is quite thin to begin with the loss of weight becomes relatively small after four or five days of fasting.

Q: Professor, where the amount of urine is 250 cc and the total loss of weight is 300 cc, one is forced to a conclusion that the man would have lost only 50 grams through perspiration and through respiration, now that is not very probable, is it?

A: No, it is not very probable and my interpretation was that he probably got some water.

Q.- Do you agree with me, professor, when I say that the first reaction of a thirsting person when drinking water is retention?

A.- Yes, that is true.

Q.- Would this explain the slight amount of urine?

A.- This is consistent, yes, with that explanation.

Q.- In order not to take up too much time I should like to ask you to tell me in the other cases I am going to put to you whether you agree with me that when the person is receiving 500 cc of sea-water a day and is fasting as well, is it not so that one must count a minimum loss of weight of 500 cc a day?

A.- Yes, I agree with that generalization. I might say for the sake of the record in making these predictions whether the subject did or did not gain access to water that I should prefer to see the blood chemistry.

Q.- The blood analyses are available. But I just wanted to ask this - take a look at case 18 - for three successive days weights vary from 51.6, 51.5 and then again 51.5. Now in this case cannot one say with absolute certainty that the person has been drinking considerable amounts of fresh water?

A.- I should agree.

Q.- Is the dullness heard when tapping the liver a pathological symptom in and of itself? Or, let me put it this way, if in a case history you find a notation that states the liver is the way it was before, would you regard that as a pathological phenomenon?

A.- That question is not clear to me.

Q.- In one of these charts I noted "Liver not enlarged, liver dullness as before" and the Prosecution construed this to be a pathological symptom.

A.- That would indicate to me that the liver was the same as it was before.

Q.- Professor, you have brought up a large number of cases here

in which you have been of the opinion that it could be deduced that severe injury had been done, and possibly permanent injury resulted therefrom. Please tell me whether you think that in these cases where the subject's weight on his release from the experiment has returned to its previous status or has even increased a bit - now, in such a case don't you feel that the experimental subjects will recover completely after the experiment? - I am referring, for instance, to case No. 21.

A.- I gave a rather long list of subjects in which I said an interpretation of the records would permit the deduction that they were quite sick at the termination of the experiments. However, the list that I gave for those who were quite sick and in whom death might have occurred was rather short. As I recall I gave a list of only three such cases. Now referring to case No. 21.

Q.- There you will find that on the 14 of August his weight was 54 kilograms - is that not so?

A.- Yes.

Q.- Now will you please look at his weight when he was released?

A.- When he was released the weight was 54.2. But one may wonder how much of that increase of weight is due to retention of water by the body. It is possible that the patient may have received so much water or fluids that that was retained or a large amount of that was retained and accounts for the return of weight to the normal level of 54. I do not see any urinary outputs in this particular subject on August 29, August 30, 31st and September 1, 2 and 3.

Q.- Professor, two weeks after the end of the experiment, on 12 September, the weight is still set down there in the chart. In the upper right hand part of the table.

A.- Do you have reference to D 12/9/44 - 57.5 kilograms?

Q.- That's right, yes.

A.- The weight of 57.5 kilograms is indicated for the 12th September.

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Q.- Professor, would you not construe this as an indication that the man has completely recovered since after more than two weeks after the conclusion of the experiments his weight stands so high?

A.- Yes, I accept that as an indication but I should like to know the urinary output on the days particularly immediately following the experiment so as to see this increase in weight was not due to sodium.

DR. STEINBAUER: I should like to ask that the two smaller booklets which the Secretary General has may be shown as well as the fever charts.

THE PRESIDENT: Are the booklets available in the Tribunal?

DR. BEIGLBOECK: The urinary output is certainly set down in the booklets, for that period 7 to 12 September.

MR. HARDY: We recall, your Honor, that during the course of cross examination we found that some of the urinary outputs were not contained in the books either.

DR. STEINBAUER: The Secretary General has had these books in his possession all the time; we have not had them since the beginning of the cross-examination.

BY DR. BEIGLBOECK:

Q.- On the 28th, the urinary output is 1,080, which is a considerable amount of elimination for a person who has just been thirsting. Professor, in case 23, you concluded from the acute gain in weight after the experiment that injury had been done? Was it your opinion that this was a case of sodium? Case 23 from the 30 to the 31 August?

A.- It was difficult for me to understand how the body weight could increase from 53.8 to 62.8 from the 30 to the 31st.

Q.- Perhaps I have made a mistake here. I have 59.8 and 62.8 as the two weights in question.

A.- Under the date of 29th there are two weights, 60.3 and 59.8, the latter is in pencil. On August 30, according to the figure as I read it it is 53.8 and on August 31st it is 62.8 and on September 1 61, and on September 2 62, and on September 3 62.9.

Q.- That is probably not 53.8 but 59.8. These are pencil notations, is that not so? The increase from 59.8 to 62.8 led you to look upon this as something pathological. Now, will you please follow the course of the weight here and conclude that some error was made in the weighing, either the patient drank a lot of water just before the weighing or an error was made by the recorder?

A.- Yes, that is possible.

Q.- You don't consider it probable that a case of edema existed here because excretion the next day would have been improbable?

A.- Well, it is true that the excretion the next day was larger than the input but that does not mean that some edema may not have been present. How extensive the edema is, is hard to say and I am willing to agree that the figure 53.8 is an error in copying down the weight because it is difficult to believe that the patient may have lost that many kilograms in 24 hours and then jumped up to 62.8 the following 24 hours.

Q Professor, if an X-ray photograph shows that the pieces of the lung show a shadow which is not relieved by coughing and that the hilus of the lungs is thickened on both sides and is fibrous, would you not concur in my opinion that this X-ray shows simply that there is a certain pleural thickening of the pieces of the lungs, that there is a scar on the pieces of the lungs?

A That is possible. As I explained in my direct testimony I should have to see the X-ray films myself before I could base an interpretation on them or answer that question with any degree of accuracy.

Q But you do agree with me that this X-ray does not necessarily show a new process taking place in the lungs?

A I agree with that.

Q Professor, when you looked through my experimental records, did you look at Case #7?

A Yes, I looked at the record on every subject.

Q This is a case that was treated with Schaefer water. This experimental subject was in the experiment for twelve days, fasting for eight, and lost 4.8 kilos throughout the experiments from the 22nd to the 2nd of September. Is that not so? From 61.5 on the 22nd to 57 on the 2nd of September.

A Yes, and then on the 3rd of September, the patient apparently still lost some more weight.

Q Is the final weight of this experimental subject - namely, 60.5 - is it the same as the person's weight roughly when he entered the experiment?

A Yes.

Q Then you would say that the subject had recovered from this fasting cure?

A Yes, on the basis of the information available.

Q In Case 3, Professor, please look in this notebook for the blood pressure record at the conclusion of the experiment - namely, on the

29th - and tell me if these blood pressures are normal? On 30 August the blood pressure is 114 over 70, in case 3.

A Yes, that is normal.

Q On the 1st of September, under the influence of strychnine which the man took, the blood pressure is somewhat higher, 136 over 90?

A Are you referring to Subject 3?

Q Yes.

A I am sorry, I don't find that.

Q It's not on the chart.

A On the pages that you had indicated with this white sheet of paper, after Subject 3, on the 30th, I find a blood pressure of 119 systolic and 80 diastolic, and then the next record, that is on the 31st, 136 over 90. The next record is.... Is that what you have reference to?

Q Yes, that's what I am referring to.

And on the 2nd of September is there a record of blood pressure?

A Yes, 120 over 76 - pardon me, it's 119 over 70, and then the space after that is blank and nothing is written in.

Q Are those normal blood pressures, Professor?

A Yes.

Q Is it not possible, Professor, that in this case the strychnine was really given as a tonic for the intestines because the man was constipated and was afraid that this would last, so the strychnine was here administered, not as a stimulant to the circulation, but as a tonic for the intestines?

A I have never heard of strychnine being so used.

Q I can only tell you that in our clinic strychnine was very often used as an intestinal tonic, but perhaps that isn't the general practice.

Now, Professor, I don't want to go through every case separately now, but I have one brief question.

Are you of the opinion that intensified vesicular respiration

indicates bronchitis?

A Yes.

Q Must one not assume that a thirsting person would excrete roughly 400 cc of urine a day?

A Yes.

Q And if such a thirsting person can concentrate 2% salt solution, do you not agree with me that you can give him as much as eight grams of salt?

A Yes, that is a reasonable assumption.

Q Now, Professor, if a person receives roughly 15 grams of salt, which would correspond to about half a liter of seawater, then he would eliminate roughly 800 cc a day of urine? Is that not so?

A Yes, that's approximately correct.

Q Thus, any one who received this amount of salt would be worse off than a person thirsting?

A Yes.

Q However, if he receives this in the form of 500 cc of sea water he would, nevertheless, save 100 cc as compared with the thirsting person.

A Yes, that's theoretically possible.

Q Professor, do you know that the experiments carried on by Ledell and Edington and Winkler led to the conclusion that small amounts of sea water, because of this slight saving of water, are better than complete thirst?

A Yes, with that idea in mind I have made a study of the question of the extent to which one may stretch fresh water by adding sea water to it, and a small quantity of sea water may be ingested with saving, according to theoretical considerations, and according to the observations of Ledell and ourselves. The extent of the ability of different individuals to tolerate the additional seawater to the fresh water varies.

Q Then, you remember, Professor, that Ledell observed that two

experimental subjects were capable of a concentration of salt higher than 2%.

A Yes, and I recall in my direct testimony, I said that since I had not seen that myself in my own experiments, I have wondered whether or not there might not be an experimental error in the case of the figure 2.3%.

Q Professor, am I right in saying that between your experiments, so far as I know them, and Ledell's experiments this difference exists - namely, that Ledell first created a certain status of dehydration before he gave seawater to be drunk?

A Yes, that's correct.

Q Then, is it not possible that a dehydrated body is capable of a better kidney concentration than a body that has enough water available to be a little luxurious in its elimination of the salt concentration?

A Yes, that's possible. That's one of the items of information that we see in the literature which we believe requires further confirmation before it can be generally accepted.

Q Is the analysis of the salt concentration in urine a difficult chemical process?

A Not to a well-trained chemist or to a well-trained chemical technician.

Q Don't you think that someone who was an assistant with Thomas for 6 years in Leipzig was capable of carrying out such an analysis.

A Yes.

Q I asked this question because that is the case with my associate in the experiments. Does not a slight elimination of urine lead to the concentration of residual nitrogen in the blood?

A That is correct.

Q Have you not ascertained, Professor, that the residual nitrogen quantities in the blood of my experimental subjects did not reach any alarming proportions?

A That is my recollection from seeing your figures last January. I have not looked them over or seen them recently.

Q Professor, please convince yourself of that again on the basis of this booklet which will be put to you; are you not of the opinion, as is generally held to be so in literature, that the juvenile organism contains more water than the adult organism?

A Yes. Will you please indicate in this booklet where I can find the figures on non-protein nitrogen?

Q The residual nitrogen values are carried continuously here with the various dates; every two days the residual nitrogen was measured and the word "Blut" (blood) is next to that figure? On the 28th and on the 30th, these are the points where the experiments reached their maximum, and here the residual nitrogen quantities are given, and you will find that in only a few cases is there any increase, but none reached the point of being dangerous. Perhaps you will also observe that only the thirsting group had a certain increase, whereas the sea-water group kept normal residual nitrogen values.

A Yes, that is true, with the possible exception of Subject 32.

Q Yes. In a few cases it rises above 50, but particularly in the case of the series using 500 cc seawater everything is normal. Is it not true that seawater taken from near the seacoast contains less salt than water taken from the high seas?

A Yes.

Q Do you not then consider it possible that Mediterranean seawater taken near the coast might contain a salt concentration of 2.7 per cent?

A Yes.

PROFESSOR DR. BIEGELBOECK: No further questions.

DR. STEINBAUER: (Dr. Steinbauer for Biegelboeck)

BY DR. STEINBAUER:

Q Now, Professor -----

THE PRESIDENT: The defendant Biegelboeck may continue to sit by his counsel, if he desires.

Q I should like to show to you, Dr. Ivy, the document that Dr. Servatius put to you day before yesterday, Karl Brandt, 104. This is a report by a prisoner regarding a hunger experiment. I shall not put this to you in order to show that these were similar experiments, but because I want to establish certain expressions that are used in it. Let me give this document to you in the English translation.

MR. HARVEY: Will Dr. Steinbauer kindly refer to the page and number of the document, what Karl Brandt document book the exhibit is contained in, and the exhibit number.

DR. STEINBAUER: It is Karl Brandt Document Book 104, and on the copy I have I should like the witness to turn to the second page where the prisoner says the following: "We all had imaginary physical ailments and hysteria." Then five lines further on "In the cases of many persons their knees and joints swelled up to as much as three times normal in half an hour. Some of the persons fainted."

Q Doctor Ivy, does this not indicate edema resulting from hunger, this swelling of the knees and joints?

A I don't know what that means. This is an article apparently taken from "Readers Digest", which is a fiction magazine. We can't depend on the authenticity of statements made in such a magazine or on their scientific accuracy. The writers for this magazine are frequently paid to write in a dramatic and sensational manner for the purpose of interesting only lay readers.

DR. STEINBAUER: In that case, Professor, in view of what you have just said we shall not pursue this document further, and I shall withdraw it. I do not wish unscientific matter to be confused with scientific matter.

I have no further questions.

THE PRESIDENT: Defendant Biegelboeck will resume his place in the box.

I understand Dr. Tipp desires to propound some questions to the witness.

Does Dr. Tipp desire his client to sit beside him during the cross-examination, or is it unnecessary.

DR. TIPP: It is not necessary, Your Honor.

BY DR. TIPP:

Q Professor Ivy, if I have understood you correctly you said in your direct examination that the consumption of large amounts of seawater for long periods of time can lead to serious injury and to death; did I understand you correctly?

A Yes.

Q You spoke also of Berkatit, that is, the drug to make seawater potable, and told the Tribunal that seawater treated with Berkatit was identical in its practical effects with pure seawater; did I understand you correctly in this?

A Yes.

Q Under these circumstances, Professor Ivy, could a person take the responsibility of giving Berkatit as the drug that makes seawater potable in practical sea emergency cases?

A I do not understand the first part of that question?

Q If the consumption of seawater leads to severe injury in the long run and if Berkatit water is for all practical purposes identical with seawater, then also the consumption of Berka water must lead to serious injuries. Therefore I ask you, could a person take the responsibility under these circumstances for introducing Berkatit as the drug to be used in practical cases of sea emergency as the drug to render seawater potable for a flier who finds himself in a state of sea emergency?

A No.

Q Now, as we know, Professor, you have just studied the documentation for this trial most carefully, particularly the Document Book V, which deals with seawater. You will agree with me when I say the Technical Office in the RLM was determined, despite the medical misgivings, to introduce Berkatit as the drug to be used to make seawater potable; do you remember the documentation well enough to be able to corroborate this, Professor?

A That is an impression which may be gained from reading the documents.

Q. Let me say in addition, Professor, that the Technical Office of the R L M was the agency which could make the decision on what drug was to be used; now in this case was it not the duty of the medical officer in the Medical Service who was in charge of the troops to do everything he could to prevent the production of Berkatit for at least long enough to determine its usefulness or uselessness?

A. Yes.

Q. Then let me put the following to you in this manner: The experiments that were carried out in Dachau for the purpose of investigating seawater you regarded as useless because from a chemical point of view it was perfectly apparent that Berkatit was useless; was that not the point you expressed in direct examination to Mr. Hardy?

A. Yes.

Q. Let me put two matters to you; you said that during the war you were consulting medical officer in American offices both in the Air Force and the Navy; therefore I may here suppose your understanding for the fact that a responsible medical officer when considering the introduction of a new drug, would have to consider not only the chemical aspects but also the clinical aspects and particularly in war, also the raw material or technical side; is that not so?

A. Yes.

Q. Schroeder and Becker-Freyseng, my two clients, are also of your opinion and were of that opinion in 1944, so far as the chemical side of it is concerned, but from the documents you have seen you know that to manufacture Wofatit, namely the Schaefer drug, silver in large amount was necessary. In 1944 when Germany was so poor in raw materials, this silver could only have been obtained by taking it away from other agencies where silver was also a necessary vital war material. On the other hand, Berkatit was made of raw materials that were easy to obtain. Do you not agree with me, Professor, that this technical aspect should not be left out of consideration in this ques-

tion when a medical officer is called upon to make a responsible decision?

A. One must consider the availability of the raw material involved in any process.

Q. Yes. That is, the technical aspect speaks in favor of Berkatit. Now, do you know the name of Professor Eppinger from Vienna?

A. Yes.

Q. You also know of Professor Huebner from Berlin?

A. Yes.

Q. Then you will agree with me, Professor, when I say that those two men are a world famous clinician and a world famous pharmacologist.

A. Yes, they are well known.

Q. Now, as actually was the case, both Professor Huebner and Professor Eppinger said that they could not decide without experiments whether Berkatit was perhaps something that should be introduced in the sea rescue service for a short time; now, in view of that fact would you not give the responsible Luftwaffe medical officer at that time the right to clarify this problem in an experiment, taking into consideration the three aspects, the military, the chemical, and the clinical?

A. I do not think so.

Q. May I ask your reasons for that?

A. The reasons are as I have already indicated. There is no reason to believe there is anything in Berkatit which would in any way effect the salt in the seawater or alter its absorption, retention or secretion from the body.

Q. Quite so, Professor, that I readily admit and my two clients were also of that opinion, but my question is a different one. Perhaps I could precede it with another question. Why does a doctor carry out an experiment? Perhaps, I can give you my opinion on this and it will help to shorten things a bit; either he does this in order to confirm the correctness of his own idea or if there are two

points of view, he wishes to confirm the correctness of one of them?

A. He also demonstrates if there is room or reason for two points of view.

Q. Quite so, but you admitted before that both Professor Huebner and Professor Eppinger are recognized authorities; you said that yourself?

A. Yes, but I should not consider them competent in this particular field.

Q. May I ask why not? The clinical aspect of this is a metabolic question, namely to what extent the kidneys are able to concentrate salt; you must admit that at that time there was no one in Europe better qualified to evaluate that problem than Professor Eppinger; or do you feel differently about that?

A. I don't believe that Professor Eppinger had any experience--

Q. Perhaps the interpreter could speak louder. I am not hearing the answers that you present. Professor, will you kindly repeat the last answer?

A. I do not believe that Professor Eppinger had performed experiments on the elimination of salt in the urine and the ability of the kidneys to concentrate salt.

Q. That is a question, which I, as a lawyer, am not competent to decide. I can only base my statements on what has been told me and I believe Professor Eppinger has done a great deal of work in this field, but that does not strike me as being the fundamental question. The basic question is this; if a world renowned clinician, of whose competence there can be no doubt, states: "I, Professor Eppinger, am not in a position to state definitely whether Berkatit should be introduced into practice or not, that must be decided by an experiment"--if such an authority makes such a statement.....

MR. HARDY: Your Honor, I believe the witness has answered the question. This is merely an argument pursuing between defense counsel and the witness.

THE PRESIDENT: Objection overruled, the witness may answer the question.

THE WITNESS: In a situation of that sort, I don't believe the world renowned clinician is entirely competent to answer the question. I would prefer to take the opinion of a physiologist or biochemist on an opinion of that sort in preference to his opinion.

BY DR. TIPP:

Q. Pardon me for saying so, Professor, but you are evading the question. I will ask you this question; could a responsible medical officer in this situation ignore Professor Eppinger and Professor Huebner's views, two recognized authorities, when they say that from their point of view experiments are necessary; could he do that or should he rather say, I am of a different opinion from that of these two authorities, however, whether I am right or these two authorities are right must be decided by an experiment. I believe you can give a perfectly clear answer to that question?

A. It is not necessary to ignore such an opinion, but one should not necessarily base their acts on that opinion without seeking in the opinions I have already mentioned, such as a biochemist and a physiologist, who have worked on the subject of salt metabolism.

Q Well, Professor Schroeder is very sorry that you were not his advisor at that time; but, I can only repeat that if the world renowned clinician, who is regarded as an authority and whose opinion is not to be disregarded, if such a man says it is possible that Berkatit contains substances that permit a higher concentration in the kidney, at least for a certain length of time, in my opinion a medical officer is not to disregard such an attitude on the part of this well known authority, but must do what this authority suggests, namely, carry out an experiment, particularly if the other side, namely a Pharmacologist expresses a different attitude.

A It still does not mean that the experiment was necessary.

Q I am afraid we are not understanding one another. I am not trying to hear from you whether the experiment is necessary. That the experiment was not necessary, that Berkatit was not suitable, that was decided in the experiment. I want to hear from you whether or not it was not right to carry out experiments for this reason: first, the raw materials problem played a role; and, secondly, two scientific authorities spoke in favor of having the experiments carried out. These questions were under debate, and I do not believe that you can assert that all those reasons should simply be disregarded, and that a person should say: I will not carry out any experiments. These two factors, the scientific opinions of the scientists and the raw materials question, must be taken into consideration by the medical officer in question.

MR. HARDY: Your Honor, I object to this. This is purely argument. The witness has answered this question for him on two occasions. And he is trying to put words in the mouth of the witness, and get the witness to say things which the witness does not believe. I must object and request that the question be stricken from the record.

JUDGE SEBING: The Tribunal will propound the question to the witness.

BY JUDGE SEERING:

Q Doctor Ivy, I am not sure I understand the nature of your statement, but is this what it amounts to? It is your view that it can be ascertained chemically and with absolute certainty that the Schaefer Wofatit would precipitate salt from seawater; is that correct?

A Yes.

Q And, it could be ascertained chemically with absolute certainty that Berka's Berkatit would not precipitate salt from seawater?

A That is my opinion.

Q And, that consequently any experiment carried on with Berkatit would be in essence nothing more or less than an experiment carried on with seawater. Is that the point?

A That is correct.

Q And, it is your view that when those situations exist, and you have on the one hand Schaefer's Wofatit that can be proven chemically as being able to precipitate salt from sea water; and on the other hand, you have Berka's Berkatit which will not precipitate the salt; that you do not have two preparations or substances so closely akin or in common as to warrant an experiment with Berkatit when you note that the effect, that the prime result or effect is a testing of a product on the one hand that will precipitate salt from seawater, and a product on the other hand that will not precipitate salt from seawater, where the prime objective is to determine a method to make sea water potable; is that your point?

A Yes.

THE PRESIDENT: It seems to me the question propounded to the witness was purely argumentative. Does the Counsel desire to propound any other questions to the witness?

DR. TWE: I have a number of question, which perhaps it will be better to put after the recess.

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. TIPP:

Q. Professor, if I understood your attitude to Berkatit correctly--namely, as you stated it in the direct examination, you expressed the view at the time that due to the pleasant taste which Berkatit lends to sea water, it would lead the shipwrecked to drink large amounts of sea water, as, for example, occurred with experimental subject number 2. Did I understand you correctly in that respect?

A. Yes, I believe there is a tendency in that direction.

Q. And is this correct too, Professor? Did I understand your statement correctly that your experimental subject number 4-- a physician who, during three days, drank only about 800 CC of sea water--did not have any complaints due to that?

A. Yes, that is correct.

Q. Now you certainly know, Professor, you have already mentioned this with Blaglock, that not only the excessive loss of water but also the loss of salt, that is, of sodium chloride, can bring with it damaging results. Did I understand you correctly in that respect too? I mean, that the loss of sodium chloride occasioned by thirsting is damaging?

A. No, I think that you must have misunderstood some statement that I made.

Q. Professor--

A. If one loses salt as the result of perspiration, then that loss of salt is deleterious.

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Q. I thought, Professor, it was pointed out that through the loss in the blood, the so-called hypochloremia --that is, the sodium chloride loss in the blood is important, and that therefore there can be some damaging results.

A. That only occurs with excessive sweating.

Q. But one thing must be correct, Professor. You have already stated today that a number of scientists, among them Ledell, were of the opinion that the administration of small amounts of sea water is better than pure thirsting.

A. Yes, because they would gain a little water, perhaps 100 CC, and still would be able to excrete that salt in the urine that would otherwise be formed and excreted.

Q. Now, Professor Ivy, I want to speak with you about the testimony of the expert, Professor Vollhardt. You have read his testimony, and therefore you will admit that he too stated that the drinking of small amounts of sea water is to be preferred to absolute thirsting; is that correct?

A. Yes, that is my recollection.

Q. Therefore, Professor, it is correct that the drinking of large amounts of sea water is harmful. On the contrary, however, the drinking of small amounts is not harmful; yes, according to the opinion of some scientists, is even to be preferred to thirsting. Now, in your statements you thought that you saw a contradiction in the statements made by Professor Vollhardt. I don't quite understand what this contradiction was supposed to be; perhaps you would be so kind as to clarify this contradiction somewhat further.

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A I should have to refer to the record.

MR. HARDY: The two points that defense counsel referred to, Your Honor, I have typewritten here, but I don't have the record. If he wants me to read the two points to him to aid in examining Dr. Ivy, I will point out the page numbers. Dr. Ivy has the record before him and he can refer to it if necessary. The first one is on page 8483, the language is the middle of the page in the Vollhardt testimony, beginning with the word "however". The next is at the bottom of the next page, page 8484, wherein Vollhardt testifies that drinking sea water with Berkatit would have serious consequences after six days. I believe those were the two pages you referred to.

BY LR. TIPP:

Q On those two places I could find no contradiction, Professor. Perhaps you could clarify the contradiction which you think you find in these two pages.

A On Page 8384 the sentence reads: "However the experiments did not give a definite supportive evidence of that but they did have an important result, not only the obvious result, namely that the Schaefer water was superior to anything else, but also the observation that the kidneys can nevertheless concentrate so astonishingly well up to the concentration of sea water that in the future one could give the advice that in cases of sea distress instead of being completely thirsty, one could rather drink 500cc. of sea water and in that manner increase the salt contents of the blood but would not have to be afraid of dedydration quite so quickly." On Page 8484 the answer at the bottom of the page. First the question: "And you want on to say, Professor, that the "admonition" of water with Berkatit which is equal to sea water would have done serious injury in practice, and provided it went on over six days would lead to death?" And the answer is: "It would have serious consequences after going on for over six days and would most certainly lead to death after--" which was the end of the sentence. Now on page 8484, it is indicated that the consumption of sea water could, on going over six days, lead certainly

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to death, whereas on Page 8483 it states that one could give the advice that in cases of sea distress, instead of being completely thirsty, one could rather drink 500cc. of sea water and would not have to be afraid of dehydration quite so quickly. If Prof. Vollhardt had used 100 or 200 cc. of sea water, then in my opinion there would have been no contradiction. The contradiction is in the fact that the record shows 500cc.

Q Professor, you thus are of the opinion that the contradiction is the amount of the sea water consumed which Prof. Vollhardt suggested?

A Yes.

Q Well now, in my opinion it is as follows: If a man who is at sea distress drinks pure sea water that has not been treated in any way, he will-- and you will probably confirm this -- because of the disagreeable taste alone will not drink large amounts. On the other hand, if he consumes water that has been treated with Berkatit, which has a good taste, the danger exists that he will consume larger amounts and increasing amounts and that this is the danger of Berkatit. Am I right in that respect?

A I did not get that impression from reading that.

MR. HARDY: May it please, Your Honor, may I ask defense counsel if he intends to imply that the Vollhardt testimony is substantially as he stated it here or just what is the purpose of his question? Is it his own opinion, the opinion of his client, or does he wish Dr. Ivy to assume that opinion?

THE PRESIDENT: Is counsel asking Dr. Ivy his opinion on that matter?

DR. TIPP: If I may see by way of supplement, I asked Dr. Ivy whether this was the opinion which Prof. Vollhardt represented here, and whether it is the same opinion that the expert has, because the contradiction which Prof. Ivy found in Prof. Vollhardt's testimony I cannot find, for the very reason I have just stated.

A I can't confirm the interpretation of the attorney. The contradiction in the two statements, insofar as my rereading of the words and

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sentences on the two pages, indicate that the contradiction is one in regard to the amount of sea water. I did not gain the idea from reading this that treating the water with Berkatit might cause them to drink more of it -- which, however, is the definite possibility, in my opinion. I have already testified to that.

Q Well, now Prof. I want to leave that subject, and I again want to go back to the discussion of some documents. May I ask you to turn to Prosecution Document Book No. 5 in regard to sea water experiments, the document book about sea water, and to look at document NO 171, exhibit 132. I believe it is page 10 in the English document book, NO 171. It is entitled, Notes about the discussion making sea water potable, on 20 May 1944. It has been pointed out to me it is document 177. I beg your pardon. It is on page 11 in the English Document Book, minutes of the two meetings.

A I have it.

Q All right. The document reads and I quote: "At this meeting Dr. Becker-Freyseng reported on the clinical experiments conducted by Col. Dr. von Sirany and came to the final conclusion that he did not consider them as being unobjectionable and conclusive enough for final decision. The chief of the medical service is convinced that if the Berka method is used, damage to health has to be expected not later than six days after taking Berkatit, which damage will result in permanent damage to health and according to the opinion of Dr. Schaefer will result in death after not later than 12 days." In order to simplify matters I want to assume that Dr. Becker-Freyseng really made this report, actually in the same way as it is reported here. Can you tell me, Professor about which experiments they are speaking in this quotation here?

A I believe they are speaking about the experiments which later were done at Dachau, and I might say that I agree with the statement that you read.

Q May I ask you, Professor, you say "I believe". I would like to

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ask you what you base your belief on in reference to this quotation which I just read. As far as I can see, this entire quotation does not speak about any experiments at Dachau. It begins: "At this meeting Dr. Becker-Freyseng reported on the clinical experiments conducted by Col. L. von Sirany." Perhaps the "Dr. von Sirany" does not mean anything to you in this connection, or do you know what experiments are meant here in saying the experiments of Dr. von Sirany?

A According to my other reading, he is supposed to have done some experiments with Berke water.

Q Yes, and the experiments were conducted at the airforce hospital in Vienna, at the Luftwaffe hospital in Vienna. Therefore I don't know from what you want to conclude that they were talking about the experiments at Dachau here. Would you please tell me why?

A According to the impression that I have gained from reading the documents in sequence and the record, this was a preliminary discussion to the experiments at Dachau.

Q Excuse me Professor, but I would like to point out to you the following sentence: First, it is a description of the external symptoms. Then it says, and I quote again, "As a result of the preliminary discussion it was agreed to arrange new series of experiments of short duration." Does that not indicate that the preceding sentences refer to the preliminary discussions and that this preliminary discussion had as its subjects the experiments in Vienna? Otherwise the formulation "as a result of the preliminary discussion it was agreed to arrange new experiments of short duration," would not be comprehensible.

A I obtain the idea that this referred to the experiments of Dr. Sirany and that new experiments were to be planned because his experiments were objectionable.

Q Yes, to that extent, I agree with you. This description refers to Sirany's experiments and perhaps can you also confirm the following opinion which, I have, namely that the damage to the health which could be

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expected refers not to the experiments, but to the introduction of
Berkatit into practice, which was feared.

A: I believe that refers to the damage to health which is to be expected to occur in the case where berkatit is used to treat seawater.

Q: Yes. Thus, this damage will result if berkatit would be introduced as a preparation in the practical sea rescue service?

A: Yes.

Q: All right. Now, Professor Ivy, another question in regard to this same document. After the statements by Mr. Hardy to you, you made a statement regarding No. 2 of this document. May I quote to you briefly? "In addition to these experiments which were supposed to last six days, a further experiment is supposed to be carried on as follows: No. 2, persons nourished with seawater and berkatit, and as diet also the prescribed emergency sea rations. Duration of experiments: 12 days. Since in the opinion of the Chief of the Medical Service, permanent injuries to health or the death of the experimental subjects have to be expected, only such persons should be used as experimental subjects as will be put at disposal by the Reichsfuehrer-SS."

In answer to the question of the prosecutor in regard to this, you stated that you could explain this sequence of the experiments only by saying that the survival time was supposed to be found out by means of these experiments. Now may I ask you what you mean by "survival time" in this context?

A: By that I mean the length of time that one might survive if they used berkatit water or seawater treated with berkatit. I said that because on Page 12 of the English record, it is stated that "the Chief of the Medical Service is convinced that if the Berka Method is used, damage to health has to be expected not later than six days after taking berkatit; which damage will result in permanent injuries to health." And according to the opinion of NCO, Dr. Schaefer, "the final result in death, not later than 12 days". I think that is sound advice -- physiological advice -- bio-chemical advice; and then here the experiment was set up for the

duration, for 12 days, in spite of the warning that permanent damage or death might result if you took it longer than six days.

Q: Professor, can you tell me whether in the entire program of experiments--you have the documents in front of you -- in this entire sequence of experiments, did you find anywhere any reason for thinking that anybody was interested in finding out the survival time?

A: No, only with the exception of the implications of these two statements.

Q: All right, Professor, and I now ask you also, is the only important factor in the determination of the survival time -- if we shall call it that -- is that the time factor or are there not also other factors which have to be considered; in other words, is only the time element important, for how long the experimental subject drinks bucketful water, but is it not also important how much the person drinks on each single day?

A: Yes, that is correct; and also the environmental conditions are important, and the conditions of the subject at the beginning of the experiment.

Q: Do you now think in this entire program which is laid down here and as the experiments were carried out, do you find anything about a statement that an amount of seawater was administered or was supposed to be administered which from the very beginning would bring about fatal consequences?

A: No, I do not.

Q: Thus you are saying that the concept of survival time can be seen only from this document, but that the rest of the program and the actual execution are contrary to the planning of such an experiment as is described here, apparently?

A: Yes, the longest that 1,000 cc of seawater was supposed to have been given at the Dachau experiments was either 9½ days or 10½ days.

Q: Now let us go to another subject, Professor Ivy. You said to my colleague, Dr. Sauter, that you wrote to the Public Service Office in order to obtain conscientious objectors as experimental subjects. Am I remembering that correctly, Professor Ivy?

A: Yes. That is correct.

Q: Would you please now be so kind as to tell us again what points you wrote down in this letter. Perhaps as a preliminary question, I want to ask why did you, in order to obtain experimental subjects, address yourself particularly to this office?

A: This office was a division of the Selective Service which had under its supervision conscientious objectors.

Q: Thus if I understand you correctly, it was the office which could give the permission first, basically, for the execution of these experiments?

A: No, they would determine whether or not the conscientious objectors could be used as experimental subjects for the experiment.

Q: Yes. In other words, this office first found out whether such experimental subjects were available?

A: That is correct.

Q: Yes. Then you said further, if I remember correctly, that in this letter you described the problem that was concerned and that you said you told them why the experiments were to be executed. I believe that is correct too, is it not?

A: Yes, that is correct.

Q: Furthermore, you requested a definite number of experimental subjects and for a definite period and also for a definite place, if I am not mistaken, is that correct too?

A: Yes.

Q: I assume that you told this office too that you or one of your assistants or another physician would supervise the experiment and that the office could be at ease and could be sure that the experiment would

be carried out by qualified scientists, is that correct too?

A: Yes, that is correct; as a matter of fact, the project or program of experimentation was passed on by the appropriate committee of the National Research Council.

Q: Professor, may I then ask you to look in the sea water experiment book, at the Prosecution Document NO-185, Prosecution Exhibit 134. It is on page 18 in the English Document Book. It is a letter of the Chief of the Medical Service of the Luftwaffe to the Reich Minister of the Interior, of the 7th of June 1944. The question of the voluntary nature of the experimental subjects which is discussed in the first sentence of this document, I ask you not to consider at the moment. I only ask you to look at the rest of the sentences, and then to tell me whether this document does not contain the same points essentially as you put down in your letter to the Selective Service?

A: I might say that our application was much more extensive, much more in detail than this, and that the scientific value of the experiment -- the way the experiment was to be designed and conducted -- was also approved by the appropriate committee of the National Research Council.

Q: But essentially you will admit, Professor, that this document contains the same points which you just described to us. The first sentences describe the problem: the two methods which are to be decided upon. The next paragraph tells why the experiments are necessary. The next paragraph requests the experimental subjects, and states where the experiments are to take place. On the second page, Dr. Beiglböck is mentioned as the directing physician. Finally, there is the usual closing statement, which was contained also in your letter. I am here not concerned with details, Professor Ivy, but only with the fact that you probably have to admit that essentially this letter states the same thing that you too stated in your application with the corresponding differences, of course.

A: Yes, but then there is no scientist involved in this exchange of correspondence. It's an administrative officer to an administrative officer.

Q: Certainly, Professor, but it is important to me only to clarify that this is the letter from an administrative office with scientific assistants, to be sure, which applies to another administrative office, which first had to give on principle the permission that experimental subjects could be put at their disposal at all.

MR. HARDY: So that Dr. Ivy may get the full significance of this, I suggest that Defense Counsel bring home the knowledge of the balance of the letter written by Becker-Freyseng for the signature of Schroeder.

THE PRESIDENT: His testimony was to that effect, Counsel.

BY DR. TIPP:

Q. Yes, Your Honor, that is correct. I believe we agreed more or less, Professor. If I understood you correctly, you criticized in this letter only the fact that it does not contain the necessary scientific specifications. In regard to this, I may perhaps tell you from the testimony of Prof. Schroeder and Becker-Freyseng that this letter is only a summary of the discussions which had already taken place between Prof. Schroeder and the competent physicians who were working on this, the Reich Physician of the SS and Police, so that the scientific subjects had been clarified already in advance, in detail, and this letter was only a formal matter and only had to contain the scientific question quite briefly. Now, a further question, Professor Ivy. When you had made your application for those performing public service, what did you do next? Perhaps I may say in advance that probably you received a notification to the effect that you were permitted to carry out the experiment at such and such a place; is that correct?

A. Yes, and then we received notification regarding the place that the conscientious objectors would come from, and approximately their time of arrival at the place where the experiment was going to be performed.

Q. Yes, Professor, did you carry out these experiments yourself, under your own guidance and direction?

A. Yes, I was present while these experiments were going on. I made some of the clinical examinations myself, and checked over sometimes the daily records, and always the weekly records.

Q. Would you have had misgivings, Professor, if you had not carried out the experiments personally, but had let another physician whom you knew

as a good scientist carry out the experiments?

A. That is possible; but since I was the sponsor, or the so-called responsible investigator, I could not delegate that responsibility to somebody else.

Q. Certainly, Professor, since you were concerned with your own research. May I now ask you, Professor, how in general -- I am not talking about your experiment, but about others -- how was this done in each case in experiments which you applied for but which you didn't execute yourself? How was it ascertained in each case whether the experimental subjects were volunteers? Did you undertake this examination yourself in each case, or did you leave the responsibility for that to the executing physician or to the office which referred the experimental subjects to you?

A. No. The subjects had to be volunteers, otherwise, they would never go to the place where the experiment was going to be done. The fact that they left the camp for conscientious objectors and went to the laboratory was prima facie evidence that they were volunteers.

Q. So they didn't have to be examined as individuals. Now, the last subject, Professor. If I understood you correctly, you said in the discussion of malaria experiments that such experiments on prisoners or CO's were supposed to be for the good of the community; is that correct?

A. Well now, malaria experiments were not done on conscientious objectors to my knowledge; they were done on prisoners in the penitentiary.

Q. Yes, prisoners. And the result of these experiments, if I understood you correctly, was supposed to serve humanity. In other words, to express it differently, as Governor Green said according to your testimony, the State of Illinois carried out these experiments in order to help the United States win the war; is that correct?

A. Yes. In the case of the prisoners, they were motivated in order to help people sick with malaria, and in their comments they

frequently referred to soldiers, or friends in the army. In the case of the conscientious objectors, their objective was to contribute to knowledge, knowledge for the prevention or alleviation of human suffering.

Q. Thus, you agree with me, Professor, with the statement I can make, that the experiments aimed at helping the winning of the war in these special sectors of medical research.

A. That was particularly true of the malaria experiments. It was not true of our minimum vitamin requirement experiments. There we had in mind rehabilitation of the stricken European areas. We wanted to know what food was best in relation to vitamin content, to supply people in war stricken areas, to keep them in good health.

THE PRESIDENT: I ask the Prosecution if he has any redirect examination of this witness.

MR. HARDY: Yes, I have, but I think I can cover it in a half hour. He may continue until 4:30. I think I can finish up between 4:30 and 5:00.

THE PRESIDENT: Do any other Defense Counsel desire to ask questions of this witness? Dr. Tipp has asked for an hour, and he has had eighty minutes or more.

DR. TISSGEBER: (Attorney for Defendant Sievers)

I did not have the intention to put any questions to the witness, but the result of the examination today causes me to ask three brief questions, and answering them will probably take a very short time only.

THE PRESIDENT: Will ten minutes be sufficient?

DR. TISSGEBER: Yes, Your Honor; that will be enough.

THE PRESIDENT: Dr. Tipp may continue for ten minutes.

DR. TISSGEBER: Thank you very much.

BY DR. TIPP:

Q. Professor Ivy, thus you recognize that necessities conditioned by the war were a basis for experiments, do you not?

A. Yes.

THE PRESIDENT: I cannot see, Counsel, that these questions of cross examination are particularly pertinent to the direct examination or to the issues at present here.

DR. TIPP: If I may reply to this, Your Honor, briefly. The question of the experiments was raised, discussed repeatedly, and a number of my colleagues tried to point out that the experiments in part, or for the most part, were undertaken because of the necessities caused by the war-time conditions. This point of view has so far not been recognized by the Prosecution, and I believe that the answer of the expert may clarify this matter considerably.

THE PRESIDENT: The Tribunal understands that situation. I don't know that Dr. Ivy is an expert who can testify on that subject. I think if you have no further pertinent questions, we might turn the cross-examination over to Dr. Weissgarber.

BY DR. TIPP: If your honors please, I have only one more question, since my time has been limited by the Tribunal. My question is the following: As you said, the voluntary nature of the experimental subject is the first basis for the admissibility of experiments on human beings altogether. To that extent I understood you correctly, did I not?

A. Yes, I think that should come first in the list of requirements.

Q. You stated today regarding the prerequisites for voluntary experiments on persons condemned to death that they are admissible from the ethical point of view, experiments of a nature that the condemned were given a medical preparation which might have fatal consequences --- Prof. Rose started this discussion: A volunteer was administered poison in this case. Is not such an experiment, however, in contradiction to the following sentence from out of Hippocrates: "I shall give no human being lethal poison, even if he asks me for it."

A. That, I believe refers to the function of the physician as a therapist, not an experimentalist, and the part that refers to the

Oath of Hippocrates is that he must have respect for life and the human rights of his experimental patient.

Q. Thus, you believe that you have to differentiate between the physician as a therapist, that is the curing physician, and the physician as a research worker; and thus you admit that in each of these functions different laws, different paragraphs of the Oath of Hippocrates apply.

A. Yes, I obviously do.

MR. TIPP: Thank you very much. And in that case I have no further questions.

CROSS EXAMINATION

BY DR. WEISSGERBER: (Attorney for Defendant Sievers)

Q. Professor, may I ask you to refer to Document Book II of the Prosecution, that is the document book with Document No. 402, Exhibit 66. It is page 88 in the German, and page 82 in the English Document Book; Exhibit 66. Professor Ivy, I now assume the case that a layman, a non-physician, reads this report by Ruff, Rascher, and Romberg; that he studies it thoroughly, or has the contents of this report explained to him thoroughly, very carefully. Are you of the opinion that this man, who is not a physician, can gather from this report that the experiments that were conducted are not in agreement with the medical professional ethics.

MR. HARDY: May I ask the Defense Counsel refer to a particular report.

THE PRESIDENT: I understood Counsel to identify the document to which he referred.

MR. HARDY: I am sorry, I did not understand what report was indicated.

THE PRESIDENT: Will Counsel identify the report, the document again?

DR. WEISSGERBER: It is Document NO-402, Prosecution Exhibit 66.

Professor, shall I repeat my question or would you like to answer it right now?

A. You are referring to Document 402, I believe, of the Ruff-Romberg-Rascher report?

Q. Yes.

A. No, he would not, but when he read the description on pages 88, 89, and on the top of 90 of the behavior of the patient subjected to slow descent from high altitude, he might be considerably shocked with the symptoms described and he might inquire whether such an experiment were necessary.

Q. If such a man, who is not a physician, now, is assured by the competent authorities that the experimental subjects are volunteers, does this man, who is not a physician, have cause to think in that way?

A. Yes, he still can be rather upset at the description of those experiments, being a lay person.

Q. Certainly, but do these thoughts of his own force the layman now to draw the conclusion that, seen from the point of view of medical professional ethics, these experiments were not admissible?

A. Not necessarily.

Q. Now, Professor, would you please look at the last document in this volume - it is Document No. 1612-PS, Prosecution Exhibit 79; that is on page 122. May I assume, Professor, that you have already read this document before?

A. I have glanced at it but I have not read it carefully.

Q. It is concerned with research orders which Himmler gave directly to Dr. Rascher, that is, in December 1942. Can a layman who sees such a letter gather from it that the execution of these experiments, for reasons of medical professional ethics, is not admissible?

A. Certainly not from this document.

Q. Would you please repeat the answer?

A. Certainly not from what this document says.

DR. WEISSGERBER: All right. Thank you very much. I have no further questions.

THE PRESIDENT: The prosecution may redirectly examine the witness.

REDIRECT EXAMINATION

BY MR. HARDY:

Q. Professor Ivy, in your experiments in the field of explosive decompression conducted at 47,500 feet were they conducted in a manner similar to the experiments outlined in the Ruff-Rascher-Romberg report, which is Document NO-402 in Prosecution Document Book No. 37

A. No.

Q. What is the great discrepancy between the Ruff experiments and your experiments?

A. In the Ruff experiments the subject was suddenly lifted to an altitude of 49,000 or 50,000 feet and from that point he descended slowly, simulating the descent that would occur with the parachute open, the subjects being exposed to oxygen lack from that time until they reached an altitude, we shall say, roughly of 18,000 to 20,000 feet. In the experiments that we performed the subject was explosively decompressed to 40,000 or 47,000 feet, where he remained breathing oxygen at the surrounding pressure at 40,000, or with additional pressure or pressure breathing at the altitude of 47,500 feet.

Q. Why didn't you find it necessary to extend your experiments to that phase as contained in the Ruff experiments?

A. Because we felt that on the basis of calculations we could determine the amount of oxygen to place in the bail-out bottle on the flyer's pants leg that would take him from an altitude of 40,000 or 47,500 feet down to a safe level where he would no longer need a supplementary supply of oxygen.

Q. Professor Ivy, concerning the questions put to you by defense counsel as to the ability of a layman to analyze these various reports of the experiments, isn't it true that if a layman read the Rascher reports that the layman might be even more severely shocked by them than a physician?

A. I should say no to that question because there are portions of the Rascher report that will shock the physician just as much as the lay-

man, and the physicians of the United States Army and Navy who first came into Germany and learned and read of the experiments which had been done on human beings, without their consent, I assure you were shocked just as much as laymen would be.

Q. During the course of your examination by the defendant Ruff, discussion of anoxia took place and you stated, I believe, that a person may be exposed to anoxia as a result of slow descent but that the symptoms may not develop until a period of 5 or 10 days had passed. Is that correct?

A. No. I said that it is possible for subjects to be exposed to a period of anoxia and then recover therefrom and have a period of no symptoms for a period of 5 to 10 days and then develop symptoms of neurological damage.

Q. Well, is it possible that those symptoms sometimes did not manifest themselves until months or years after the lesion of the basal ganglia inflicted by the basal action episode?

A. No.

Q. You don't know of any work along those lines, as to whether or not this anoxia condition would develop or be manifested months or years later?

A. No. If they did not appear within two weeks, there is no evidence indicating that they may occur later with which I am familiar.

Q. Now, Doctor, concerning your testimony regarding the conscientious objectors, I have a few points which may tend to clarify this situation in the minds of defense counsel. Would you tell us how a person is classified as a conscientious objector?

A. Well, first, everyone within a certain age group in the United States had to register.

Q. Register for the draft?

A. For the draft or selective service.

Q. That is, conscription into the United States armed forces?

A. Yes. Then at some time later the actual draft occurred. The

conscientious objector could announce that he was a conscientious objector to serving in battle or serving with the military organization at the time of registration or at the time of induction or being drafted.

Q. And after he registered his objections to participating in any manner in the army, was he then allowed to return to his home, or was he asked to cooperate in matters which did not involve things of a military nature?

A. No, he was assigned to the Civilian Public Service Agency and asked if he wanted to cooperate by rendering public service.

Q. And that public service was work as orderly in a hospital and work in various libraries, perhaps, and other public institutions?

A. Yes, or forest fire prevention, and cleaning up the woods.

Q. Was this man, this conscientious objector, in confinement?

A. They were only placed under confinement when they would not cooperate in any way.

Q. Was there a national committee to take care of the interests of the objectors?

A. Yes, as a general rule the conscientious objectors were supervised by a civilian religious group, such as the Quakers or the Mennonites.

Q. Was the conscientious objector under any duty to volunteer for medical experiments?

A. None whatsoever.

Q. However, he was under obligation to work in various libraries or forest fire prevention, etc., if requested to by the committee?

A. Yes, it was necessary for him to render some sort of public service.

Q. Then you determined that you needed experimental subjects. How did it happen that you decided that conscientious objectors might be made available to you?

A. As I recall, the National Research Council, in view of the fact that the medical students and dental students were mustered into the army

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and could no longer serve as subjects in experiments in university and medical school laboratories, took the matter up with the Director of the Civilian Public Service, who then decided that the conscientious objectors might be allowed to volunteer for such work in connection with medical schools and research institutes.

Q: And by that token you were permitted to approach conscientious objectors to ask them whether or not they would volunteer for medical experiments?

A: I or the investigator did not approach the conscientious objectors directly. We requested that a certain number of volunteers be allowed or sent to us through the director of the Civilian Public Service Agency.

Q: And these conscientious objectors were sent to your university laboratories?

A: Yes, that is correct.

Q: While they were at your laboratory were they living in the dormitories at the university?

A: Yes, in the dormitories or in the hospitals.

Q: Were they under any surveillance at all?

A: One person in the group was appointed as a leader, supervisor of the group, and it was his duty to see that the men carried out their instructions properly and on time.

Q: Was it possible for any one of these objectors to receive leave or to have weekend liberty?

A: It was not in most experiments.

Q: Well, assume for the moment that you were not going to use the experimental subject for a period of two or three weeks. Was he in such a position that he could not go on leave or go to the city or was he supposed to remain at your university at all times?

A: No, he could leave for certain periods of time, varying in length from a few hours to a few days, depending upon the nature of the experiment. If it were a dietary experiment, then he had to eat at the diet table all the time.

Q: Then he actually had freedom of locomotion, in contradistinction to a prisoner in an institution or penitentiary?

A: Yes.

MR. HARDY: I have no further questions, your Honor.

BY THE PRESIDENT:

Q: Dr. Ivy, is it or is it not your opinion that the experiments in slow descent from an elevation of 47,500 feet which were carried out by the defendants Ruff and Rosenberg were likely to cause physical injury to the experimental subjects?

A: I said it was possible that this might injure the learning mechanism in the brain but otherwise there was no reason to believe it would cause physical injury.

Q: I didn't remember just what your answer for that was.

A: And it was for that reason I said I should be reluctant to do such experiments on myself or these subjects and would try to find some other way to answer the question.

MR. HARDY: The examination of Dr. Ivy is finished, your Honor. I might inquire how long Dr. Steinbauer will continue with his redirect examination of the defendant Beiglboeck.

THE PRESIDENT: I would ask Dr. Steinbauer how long he thinks the further examination of the defendant Beiglboeck will require.

DR. STEINBAUER: May it please the Tribunal, I shall need about an hour and I request that I may continue the case tomorrow. I shall then hurry with Professor Beiglboeck, and I agree to it that Tschafonik can be examined then because he has to return. I only want to have an opportunity to examine Dr. Beiglboeck because I did not know Tschafonik was here. Then immediately afterwards, perhaps in the afternoon, I could also examine the two other witnesses who are here so that the examination of witnesses can be concluded. I think the prosecution produced some other witnesses for the cross-examination.

MR. HARDY: That is agreeable with me. The other witnesses we have, I haven't been able to talk to yet and I don't know just when they will be able to take the witness stand. However, the witness Tschafonik will be available tomorrow and as stated by defense counsel, he can be called

after the case of the defendant Beigblock is completed. It is agreeable with prosecution.

THE PRESIDENT: The Tribunal will be in recess until nine-thirty tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until nine-thirty tomorrow morning.

Official Transcript of the American
Military Tribunal in the matter of
the United States of America, against
Karl Brandt, et al, defendants,
sitting at Nurnberg, Germany, on
5 March 1947, 0930, Justice Beals pre-
siding.

THE MARSHAL: Persons in the court room will please find their
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants
are all present in Court.

THE MARSHAL: May it please your Honor, all the defendants are
present in court.

THE PRESIDENT: The Secretary General will note for the record the
presence of all the defendants in Court.

Counsel may proceed.

DR. STEINBAUER: For the defendant, Professor Baiglbeck:

BY DR. STEINBAUER:

Q.- Witness, in re-direct examination I have to ask you only one
question, since due to yesterday's examination of the expert many ques-
tions have been clarified. Mr. Hardy asked you who is Dr. Pepper. I am
asking you, did you have anything to do with the removal of Dr. Pepper
and the other two Jewish assistants during the year 1938 from Eppinger's
clinic?

A. In 1938, the Jewish assistants were dismissed from all
Vienna clinics. This was done at the request of the ministry. I had no
influence of any kind and I could not have prevented it nor did I ever
approve the manner in which this was done and at that time I was in no
way responsible for personnel matters in the clinic and I can only



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say I had nothing at all to do with it.

DR. STEINBAUER: I have no further questions to put to the witness, Your Honor.

JUDGE SEBRING: Doctor, can you explain why these men were removed from Dr. Eppinger's clinic? I think you said about that time all Jewish clinicians in Vienna were removed. Did I understand you correctly?

A.- Yes, Your Honor, that was after the German troops entered Austria, that is, a few days after the declaration of the Anschluss this dismissal was undertaken by the ministry.

Q.- Was that a part of the German anti-Jewish program so far as you know?

A.- That happened with the transformation of Austria by the National Socialist Government, and was, of course, a part of the Nazi program.

I have no further questions.

THE PRESIDENT: Does any Defense Counsel have any questions to propound to the witness?

DR. TIPP: Professor Schroeder and Dr. Becker-Freysong:

BY DR. TIPP:

A.- Witness, I too have only one question to ask you. Yesterday you heard that the expert of the Prosecution, Professor Ivy, stated that Professor Eppinger was not an expert in the field of kidney research. Perhaps you can state your opinion in this matter in conclusion, and I assume that the Court will be interested in knowing what papers Professor Eppinger published in this field and related fields.

A.- I can only state from memory and I know the following about it. About 1921 Eppinger, together with Hess, published a book called "Über die klinik der Nierenerkrankung", the "Clinical treatment of Kidney Diseases". In 1923, Eppinger wrote a book, "Therapie und Pathologie des Menschlichen Oedems", Therapy and Pathology of the Human Edema. In this book he made basic studies about the salt and hydrogen metabolism and about the effect of the thyroid gland of these functions of the kidney.

About 1936, these two students of his, Popper and Mandel, published a very thorough study about the functions of the kidney, which were conducted under the constant, lively interest of Eppinger himself. In 1942, or 1943, his student Albrich told me about publications which concerned nephritis experiments in animal experiments, and which opened up an entirely new point of view especially for the early stages of nephritis. On the basis of these last two works, especially in 1942 and 1943, Eppinger carried on new investigations on the entire field of kidney pathology and in his not yet published work, which was supposed to have the title in German "Permeabilitäts Pathologie", as far as I remember gave a new presentation of kidney pathology. That is what I know about his works, about this field, but I am convinced that among the many hundreds of scientific papers which he wrote there are also some smaller ones which are concerned with these questions in particular.

DR. TIPP: Thank you, I have no further questions.

THE PRESIDENT: Are there any other questions on the part of any defense counsel?

The Prosecution may cross examine.

MR. HARDY: Prosecution has no further questions to put to the defendant Beiglboeck.

At this time, Your Honor, I wish to state that we have the witness Tschofenig here this morning and he is ready to take the witness stand. After the examination of the defendant Beiglboeck is completed, I should like to call Tschofenig prior to the submitting of the Beiglboeck documents by defense counsel.

THE PRESIDENT: There was one other witness to be called by the defendant Beiglboeck, the witness Mettbach. Is he available, Dr. Steinbauer?

DR. STEINBAUER: The witness has been summoned for this afternoon - the witness Mettbach, because he had to go to work.

MR. HARDY: I believe that we will have completed the testimony of the witness Tschofenig by noon today, Your Honor.

THE PRESIDENT: The Tribunal will proceed to hear the testimony of the witness Tschofenig.

The defendant Beiglboeck is excused from the stand and will take his place in the dock.

The Marshal will summon the witness Tschofenig, who will be called out of order.

(JOSEPH TSCHOFENIG, a witness, took the stand and testified as follows.)

JUDGE SEERING: Please hold up your right hand and be sworn.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY MR. HARDY:

Q. Marshal, would you extend the earphones of the witness Tschofenig so that he can put them on properly. They are not down far enough.

Your name is Joseph Tschofenig, is that correct?

A. Yes.

Q. You spell your last name T-s-c-h-o-f-e-n-i-g?

A. T-s-c-h-o-f-e-n-i-g.

Q. Thank you. When and where were you born, witness?

A. On the 3rd of September 1913 at Pontafel.

Q. Would you briefly tell the Tribunal your educational background, that is, your primary education in your childhood and the extent of your education and what you did prior to the time that you were arrested by the Gestapo in 1940?

A. As a child of a railroad worker's family I went to the elementary school and then to senior school for three years. Thereupon to the technical school for machine construction and electrotechnics. After this education I worked for a few months in my profession.

MR. STEINBAUER: Mr. President, as far as I know from the transcript and from the rules of the Tribunal, Tschofenig has been brought here to be my witness for cross examination. I am under the impression that Mr. Hardy now wants him to examine him anew. I think that this would be improper.

MR. HARDY: Your Honor, I have called this witness as a rebuttal witness and made it quite clear. After he was on his way here, some defense counsel requested him for cross examination. That was at the time I had read this third affidavit and Mr. Tschofenig is here as a rebuttal witness.

THE PRESIDENT: Yes, prosecution requested the calling of the witness and the witness was called for the prosecution, to examine him as a rebuttal witness. Of course, counsel for defense will have every opportunity to cross examine but the prosecution should open the examination as the witness was called by the prosecution in rebuttal.

BY MR. HARDY:

Q. Would you continue, Mr. Tschofenig, please.

A. After a few months in a technical activity I also participated

in political life, because I am of a social democratic family. With that already in 1932 I came into conflict already at that time with the laws of that time and was arrested a few times. After the 12th of February 1934 I became a Communist and as such I took part in illegal activities. I was in the concentration camp Woellersdorf. After being released I worked in my profession for a few months and then I was supposed to be arrested again. I escaped from this arrest and I worked illegally politically in Austria. After the annexation of Austria by the Third Reich I remained in Austria illegally and only toward the end of 1938 I left Austria. I was an immigrant in Belgium where, in connection with the events of the 10th of May 1940, I was transported by the Surite (Burete) together with all other immigrants to southern France. The German authorities came to the camp Cyprienne where we were kept and fetched me and others from this camp and transported me back to the Gestapo in my home town and after some investigations I was transferred from there to Dachau Concentration Camp.

Q. That was in the year 1940 that you were transferred to Dachau Concentration Camp?

A. Yes.

Q. In the month of December?

A. Yes, in the month of December, on the 8th of December.

Q. When did you leave the Dachau Concentration Camp?

A. In the Dachau camp I was liberated by the American troops.

Q. Were you ever incarcerated in a penitentiary or prison for criminal activities other than those of a political nature?

A. No.

Q. Can you tell the Tribunal briefly, Mr. Tachofenig, what you are doing at the present time and what you have done since your liberation from a concentration camp, that is, your work, etc.

A. After my liberation by the American troops I became a member of the International Inmates Committee as representative of the National Committee of the Austrians at Dachau. As leader in the International

Inmates Committee I went along on transport of my fellow inmates to Austria hoping that there I would be able to see again my wife and my child. I found out that five days before my liberation my wife was murdered in a Gestapo prison. After this stroke of fate the English Red Cross brought me to Carinthia with a number of my comrades and there as representative of my party I immediately entered the then provisional government of that province. After the election on 25 November 1945 I was a representative in the Land Diet of my party and as such I am active in political life today.

Q. You are a member of Parliament, so to speak, in Austria at the present time?

A. I am a member of the Carinthian Land Diet of the province of Carinthia and chairman of my party in the Land Diet.

Q. I see. Mr. Tschofenig, when you arrived in Dachau, you first worked with the other inmates on special projects and in February 1941 you were sent to the camp hospital to work, is that correct?

A. Immediately after I arrived there, I was given a clean up job and there I worked for two months with pick and shovel. After that labor detail I was sent to the camp hospital as house worker in the beginning of February 1941.

Q. Mr. Tschofenig, the translation here is spontaneous. That is, the interpreter translates into English immediately after you have spoken in German. So, if you would kindly speak a little slower, it would be helpful.

INTERPRETER: Mr. Hardy, he is speaking too slowly.

MR. HARDY: I have been misinformed. Would you speak a little faster?

Q. Now, in the camp hospital what were your duties?

A. In the camp hospital I was first a domestic worker and then was used as a male nurse for prisoners and when one of my comrades could take an assistant into the x-ray station he took me as an assistant into the development room of the x-ray station. And through the developments

that took place in the events of the camp the responsible inmate manager of the x-ray was transported to Auschwitz and under those conditions the circumstances arose and I, as the only inmate who understood anything about it, was appointed in that capacity.

Q. That was in the summer of 1942?

A. Yes, that was the beginning of the summer of 1942.

Q Well, in this capacity as Chief of the X-ray station, what were your duties?

A At the beginning of my activity, I took the usual X-ray pictures and assisted in the taking of X-rays. When the order of the camp came that all of the camp inmates were to be examined for tuberculosis in 1943 by a fluoroscope, the physicians could, at that time, not accomplish their tasks any more and therefore left it entirely up to the prisoners and, due to that, I was able, through those fluoroscope examinations, to bring prisoners, for whom it was necessary, to the hospital where they could recover a little bit.

Q Was there always a doctor in charge of the X-ray station?

A At the beginning, there was always a responsible director, a SS physician, who was in charge of the X-ray station and already in 1942 it happened that no responsible SS physician was appointed as director of the X-ray station and, thus, the X-ray station was left to itself.

Q Well then, after 1943, you were quite independent in your position as Chief of the X-ray station, is that correct?

A I was independent to the extent that it concerned the competence of the station itself.

Q Do you recall a transport which arrived in Dachau in the summer of 1944 containing Gypsy inmates?

A I remember that very well.

Q Could you tell us something about the disposition of the Gypsies after arrival in Dachau?

A The transport which arrived - on the average, had the normal weight of every prisoner.

Q When did you see them for the first time?

A According to the instructions of the camp, I had to take a fluoroscope of every transport that arrived in the camp and, in this way, the transport, after they had changed their clothes, came immediately to the hospital, first to the dispensary and then to the X-ray station for fluoroscope.

Q How many of the Gypsies did you exclude from the experiments as

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physically unfit?

A. Since I had already heard about the projected experimental station before, I tried, as far as possible, to keep some prisoners from the transport out of this. There were, as far as I remember, 15 to 20 of them whom I excluded.

Q. Were there other examinations made to determine their fitness for the experiments?

A. After the fact had been established by my examination of them that there was not a sufficient number for the experimental station, the dispensary, through the camp himself, and the camp physician - determined themselves the fact that they were suitable inasmuch as they were simply examined and transferred to the experimental station.

Q. Were all the experimental subjects used in the experiments considered to be in perfect physical condition?

A. This transport, considering that it was for a concentration camp, can be considered as in good physical condition. That is, they were all able to work.

Q. Were the ones excluded by you in your examinations definitely not used in the experiments, or were they later picked up and used in the experiments?

A. I don't know that any more because the transport was then transferred to an invalid block from where the prisoners were then transferred to the experimental station a few days later.

Q. Do you know Professor Dr. Beiglboeck?

A. Professor Dr. Beiglboeck I saw a few times in the camp and he also came to the X-ray station a few times himself.

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Q. Did he examine any of these inmates to your knowledge?

A. Dr. Beiglboeck, you mean?

Q. Yes.

A. Yes, Dr. Beiglboeck, after he heard of the results of the examinations that I got, expressed some suspicion of my results of the

examination and asked me for X-rays, and through the instruction of the camp physician to take as few X-ray pictures as possible because we did not have the material for the, Dr. Beiglboeck again checked the persons whom I had examined.

Q. Well, did any of the persons whom you excluded then become available for the experiments as a result of the examination by Professor Beiglboeck? Do you know that?

A. My findings-already during the experiment-had been reported as being incorrect to the doctor and then he decided to make his own examination and represented my examination as being incorrect and with that he effected that I myself could not take a flueroscope alone of these patients any more or of these prisoners who were in the experiments.

Q. Did you ever see Professor Eppinger at the Dachau concentration Camp?

A. I myself, in the hospital, was told by one of my comrades that Professor Eppinger, before the seawater experimental station was established, came as a visitor to the Luftwaffe station and he stayed for two days.

Q. During the time the seawater experiments were being conducted did you examine any of the experimental subjects?

A. During the seawater experiments, sick persons or experimental subjects were also brought to me for examination, and during these examinations Dr. Beiglboeck expressed his mistrust of my results of the examination.

Q. Did you notice any physical change or visible change in the physical condition of the inmates used in the seawater experiments when you examined them during the course of the experiments as opposed to your examination which you conducted prior to the beginning of the experiments?

A. I found out for sure already, after two weeks, that the physical condition had deteriorated considerably due to the experiments.

Q. Did you know of any incidents where the inmates were particularly upset as a result of the experiments?

A. I heard about that and also one case of maniac attack of one of the

patients who were in the experimental station.

Q. Do you know whether or not, Mr. Tscheffenig, that these experimental subjects were volunteers or was that knowledge ever brought home to you?

A. My personal impression was, from the very beginning, that this transport had been brought to Dachau under false pretense and that the people had been told not that they were going for experiments but for work, and when they found out what it was about everybody tried to get out of it.

Q. Were you able to ascertain the nationalities of the various subjects?

A. I myself was not able to do so. Every day I did up to 300 fluoroscope examinations and 100 X-ray pictures and could talk very little with the prisoners who newly arrived at the camp about their nationality or about their ideas.

Q. Could you tell us approximately when the experiments began and when they were completed or do you specifically recall the dates?

A. The exact date I cannot remember. It was in the summer of 1944 and, as far as I know, the experiments lasted for about six weeks.

Q. Do you know what happened to the experimental subjects used in the experiments after the completion of the experiments?

A. After the completion of the experiments the experimental subjects were examined as to their ability to work or not to work and they were divided into groups. Those who were sick were transferred to the normal block hospitals.

Q. Were any of the inmates used in these experiments-these sea water experiments-at Dachau ill as a result of the experiments?

A. I don't know very much about this since, after the completion of the experiment, I was unable to take a fluoroscope of all of these experimental subjects.

Q. Well, did any of them have to report to you for X-ray after the completion of the experiments?

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A. I know that after the completion of the experiments, three of these experimental subjects came to the station for internal diseases.

Q. Do you know for certain that those three subjects were from the experimental station wherein the seawater experiments were conducted?

A. Yes.

Q. When these people came to your station for X-ray, can you describe to the Tribunal their condition?

A. Every patient who was brought to a station which treated internal diseases was in the morning brought for examination to the X-ray station as a new arrival in this station and of these people these three were brought from the station for internal diseases on the next morning to the X-ray station. One of them was no longer able to walk himself. He was on a stretcher and was carried on a stretcher up to the X-ray apparatus.

Q What symptoms did they show as a result of the X-ray examination; did they show any positive results to the heart and the lungs?

A I still remember very well, I had to state as a result of the examination that just the patient who was brought on a stretcher that his lungs as well as his heart were alright.

Q Do you know what happened to that inmate who was brought in on a stretcher after you X-rayed him?

A The results of my examination went to the station where the inmates were kept. I received word that it was not necessary to report the result of the examination to the station since the inmate had died. The opinion of the station physician, who was an inmate himself, was that the ultimate cause were the sea-water experiments and that death had been caused by that.

Q Did you receive this information as official?

A This report I received officially through the station, with the instructions to give my report to the secretary's office.

Q Do you know how long after the completion of the sea-water experiment that this subject died; was it a period of two weeks, three or four days or how long; do you recall?

A I remember because after they were transferred to the station for internal diseases it was only three days later that the patient died; it was not a case of typhoid and there were no other symptoms of illness that could be determined.

Q Were you able to see his charts or records and determine from them the cause of death?

A When I examined him, I saw the curves, the sickness curve myself where the block was mentioned from which he came from, Block 1-A, that was the experimental station, and I could determine that the clinical examinations had given negative results; that was identical with my examination.

Q Now, for the benefit of this Tribunal, Mr. Tschofenig, once again are you absolutely sure that this man you refer to died as a result of

the sea-water experiments?

A This was the general opinion in the hospital and it is also my own opinion that this patient from the sea-water station died as a result of the experiments.

Q Your Honor, I have no further questions.

THE PRESIDENT: The counsel for the defendant may cross-examine.

CROSS-EXAMINATION

BY DR. STEINBAUER:

Q Which religious denomination do you belong to?

A I believe in God.

Q This is a Nazi conception.

A It means that you have no confessional ties and affiliations but still believe in God.

Q Where are you living, in Austria?

A At Klagenfurt.

Q And where do you live now, in Nurnberg?

A In Nurnberg, I am living at the hotel.

Q Do you walk around freely?

A Yes.

Q How does it happen then that the Austrian newspaper wrote, especially your party organ, which is always well informed, "T schofenig was kidnapped by the British and brought to Nurnberg?"

A That is the case because all officers which I had something to discuss with did so without any interpreters and the summons for a witness, they did not look at the paper which summoned me to come here as a witness, and they treated me as a prisoner or threatened to do so.

Q Thus you did not like to come to Nurnberg? Speak more slowly and wait until the interpreter is ready.

A I gave testimony when I found out that Dr. Beigelboeck was working in a British hospital in the British zone of Austria before I gave this testimony to the Police.

Q We shall speak about that later. Witness, at the moment I am only

interested in that your party organ writes that the British kidnapped you!

A I was of the opinion that it was sufficient to give an affidavit and in that way to make my statement under oath in Klagenfurt before the Tribunal here and that would be sufficient.

Q Thus, it is possible that you did not want to come before an American Tribunal or that you have reasons to change your testimony in any way?

MR. HARDY: Your Honor, I must object to this, the witness stated he came here voluntarily, he stated through an oversight he was given considerable trouble on his way, he is here now voluntarily and is quartered in the Deutscherhof Hotel and he is going to return to Klagenfurt. There was no coercion or duress exercised over the witness in any way and I want that clear for the record..

THE PRESIDENT: The objection is overruled.

BY DR. STEINBAUER:

Q Well, witness, in any case your party organ had the impression, otherwise they would not have written that you don't want to go to Murnberg; is that correct?

A I did not read any newspapers from Austria thus I do not know what was written there.

Q Well, I can tell you what was written; it says that the British government of Corinthia requested you repeatedly to appear, you did not come and thereupon English soldiers came to fetch you; is that correct?

A That is not correct. I received a request to come to Murnberg, by the British Element, Civilian Affairs, I asked them to transport me back again as quickly as possible, as I am very busy and I do not have the time to be away from Congress for a long time and the Corinthian Parliament is in session now.

Q Well, and there are other big doings going on and it was very necessary that you are not away from home, I can understand that. In my duties as a defense counsel, I also obtained some information about

you personally, and got the reply, "Very intelligent, but fanatic." I am not reproaching you for that. I myself, was in prison in Hitler's time, the Gestapo repeatedly got me out of my bed and I can understand very easily. (To Mr. Hardy): Please do not interrupt me, Mr. Hardy, If you lost your wife

THE PRESIDENT: The counsel desires to make an objection to your question and he is entitled to be heard.

MR. HARDY: Your Honor, I think other witnesses could perhaps testify as to the character of the witness Tschofenig, that is not the problem of the defense counsel, if he desires to testify to the character he may take the witness stand and do so. Whether or not the witness is "intelligent or fanatic" it is not for the defense counsel to state from this podium.

THE PRESIDENT: The statements contained in counsel's address to witness were not proper questions to be propounded to the witness. The counsel will simply propound questions to the witness, which the witness can answer properly as testimony in the case, then the matter will proceed in a more orderly manner and somewhat faster.

BY DR. STEINBAUER:

Q Witness, due to the tragic fate which you suffered yourself and the fate especially which befell you with the death of your wife, are you not especially filled with hatred?

A That is not correct, I remained a human being even in a concentration camp and yet now too.

Q I have to tell you, witness, that one of your compatriots, Kogon, wrote an excellent book and pointed out in particular that the concentration inmates had feelings of hatred.

A That is probably a literary necessity for an author.

MR. HARDY: Your Honor, if the Defense Counsel is quoting Kogon's book and is quoting passages which he has introduced, which I have called to the attention of the Tribunal, it is out of context and I request that he be required to submit the passages in the book to the witness,

Tschofenig, so that the witness himself may be properly informed, so that he may answer the questions intelligently.

THE PRESIDENT: The objection is overruled, counsel may proceed with the questions. If he desires to call particular attention to any particular page of Kogon's book, he may do so, the objection is overruled. He may proceed.

BY DR. STEINBAUER:

Q On page 52, witness, perhaps you could read out slowly so all of us can hear it.

A "Most of the people in the camp were filled with an unimaginable desire for revenge, the spiritual reaction of helplessness; tortured men reked their brains for new exaggerated much worse tortures which they wanted to inflict sometimes in the future on those who now reacted their whims on them. The thirst for revenge was directed towards the entire National Socialistic Regime and its followers." If I may now make a remark?

Q Yes, do.

A Human beings, people who carry such thoughts along with them are lone wolfs and they did not belong to the group of concentration camp inmates in general, because each human being did not remain alone in a concentration camp by himself. So, he was not hopeless and helpless because he carried that all in common and because he was conscious of the fact that this regime approached its end.

Q That is the opinion that many people had outside of the concentration camp too, witness.

Now, another question, witness, a very respectable physician appeared here, a Czech, and he reported that the most amazing rumors were current in the camp and there was a mass psychosis in the camp; is that correct?

A At what time?

Q Well especially at the critical time in 1944 and later on.

A In 1944 rumors arose because transports of invalids were

made and in 1945 the rumors were well founded because his own experiences let the thought arise in the mind of every prisoner that the regime, at its end, contemplated the complete liquidation of all inmates.

Q If we now take these two conceptions, mass psychosis and hatred and if we combine these two and I furthermore tell you that in your first interrogation you said yourself, "I could not have direct insight into the experimentation station" and if I furthermore tell you that all witnesses with whom I spoke assured me expressly that nobody died as a result of the experiments, I am therefore asking you do you not consider it possible that unconsciously you were subject to that mass psychosis?

A I did not have direct insight into the experimental station, I was not and am not subject to mass psychosis and it is a fact that without exaggeration I can answer for these statements here before the court and I can stand by them.

Q Well, now, whatever you think, I am now going on to your individual statements, you were interrogated twice; is that correct?

A I was interrogated three times. The first time due to my report to the police; the second time by a representative of the Vienna State Police and the third time by the representative of the Prosecution of the Court here.

Q Can you tell me the name of the gentlemen?

A The name of the representative of the Police I can not tell you.

Q But, the last one who interrogated you?

A In Klagenfurt....

Q No, I mean on 14 May 1947.

A In Klagenfurt, I was interrogated by one Dr. Alexander.

Q Thank you very much. The first time you were interrogated on 7 February 1946?

A The first time it was I who made the report.

Q Alright, witness, we should not misunderstand each other - the

time of the Tribunal is precious; here in this file there are two interrogations, one of the 7 of February 1946 and one which the physician, Dr. Alexander, conducted on May 14, 1946 in Klagenfurt; now let us speak about your first statement; did you know a certain Dr. Rascher?

A Yes.

MR. HARDY: Your Honor, I request that the witness be given the two copies of the affidavit he signed in Germany.

THE PRESIDENT: The affidavits which the witness made in the German language will be handed to him.

DR. STEINBAUER: I don't have them, Your Honor.

THE PRESIDENT: I understand that, but they should be available in the office of the Secretary General.

MR. HARDY: One is Document Book No. 5, Your Honor.

DR. STEINBAUER: That is illegible, it is here.

MR. HARDY: The other one is a supplemental exhibit and was just put in recently.

DR. STEINBAUER: Your Honor, I have only one copy. I could get only one copy of the document book and that is illegible.

THE PRESIDENT: The Tribunal will be in recess in a few moments, and when it is in recess these copies can be procured from the office of the Secretary General.

Alright, the Tribunal will be in recess for a few moments,

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. STEINBAUER:

Q. Witness, did you know Dr. Rascher?

A. Yes.

Q. Now I would like to hand you your two affidavits--
the originals.

(Documents submitted to witness)

If you will look at your statement of the 7th of
1946, you will agree with me if I say that you begin by
speaking of Dr. Rascher's experiments?

A. Yes.

Q. And you will also agree with me if I say that
you and your testimony with the same experiments?

A. Yes.

Q. Did you often see Dr. Rascher and Dr. Beiglboeck
together?

A. No.

Q. Was Dr. Rascher still there?

A. No, Dr. Rascher was not there.

Q. Then there is no connection between Dr. Rascher
and Dr. Beiglboeck?

A. The two stations had a connection.

Q. That is, they were in the same place?

A. Dr. Rascher's station was related to the Luft-
waffe experiments. Through Professor Eppinger's visit to
this Luftwaffe station, the sea water experimental
station was set up.

Q. Here during the trial it was stated that on the
20th of July 1944 this arrangement was spoken of for the
first time; Eppinger was there in August. I ask you, is

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it not possible that you confused Professor Eppinger with some one else, perhaps with Dr. Beiglboeck, who was Eppinger's assistant, whom you did not know as yet at the time? Please think; it is impossible that Eppinger was there at that time.

A. I know of the setting up of this station; I learned of it only when Professor Eppinger was in Dachau at the Luftwaffe Station visiting Dr. Ploekner.

Q. That was Beiglboeck, Eppinger's assistant, who talked to Ploekner. Did you know Eppinger?

A. No, I did not know Eppinger. The visit of Professor Eppinger was announced to the camp by a prisoner.

Q. That was Lebersdorfer?

A. Yes. The prisoner Lebersdorfer was a student of Professor Eppinger.

Q.- Yes, very true, And he talked to Eppinger in August?

A.- Yes.

Q.- Then you do not exclude the possibility of a mistake. Eppinger was there, but you can't say exactly when he was there?

A.- I cannot give the date, but Prof. Eppinger was there. The prisoner Lebersdorfer recognized him and told me personally that after he, Lebersdorfer spoke to the Professor, he expressed astonishment at finding a former student among these criminals.

Q.- Yes, that is true, Was Beiglboeck there?

A.- I don't know.

Q.- In any case Eppinger was there and talked to Lebersdorfer?

A.- Yes.

Q.- Now we will go on. In this affidavit you say that 60 gypsies were brought from Sachsenhausen.

A.- The camp learned that prisoners were to come from Sachsenhausen for these experiments and only after they arrived was it learned where they came from, but within the camp it was always said the prisoners from Sachsenhausen.

Q.- But they really weren't from Sachsenhausen?

A.- I myself did not ask any of the persons who were used for these experiments where they came from when they came to Dachau.

Q.- Then when you say 60 gypsies came from Sachsenhausen, that might be incorrect?

A.- It was a fact known in the camp that these people came from another camp to Dachau for the experiments.

Q.- The second time you say there were not 60 but 80 to 90. Which figure is right?

A.- Every day I had transports for examination. In addition to the expected prisoners there were others for fluoroscopic examination, and that is included in the figure which I gave here in my statement.

Q.- Then those are people from various transports?

A.- No, from one transport.

Q.- Then if you look at your testimony you say a hunger cure was prescribed at the beginning. Is that not a misunderstanding? Actually the people had to get especially good food at the beginning of the experiment?

A.- I had nothing to do with this station and the diet of the prisoners, but it was known in the hospital that a distinction was made between the experimental subjects as well as between food and treatment --

Q.- You cannot say whether there was a starvation diet at the beginning?

A.- It was known in the camp that the prisoners had different food, or less food, for a few days.

Q.- But you don't know anything about this from your own observation?

A.- No, I was not at this station.

Q.- Then you say the people were given a salt diet. You are an intelligent man, Mr. Tschafenig. Think that over. An experiment was being conducted here to make sea water drinkable, and conditions of distress at sea were to be imitated. And we can prove by showing tables that the sea emergency rations contained as little salt as possible. Can you imagine that Beiglböck gave these people a salt diet?

A.- Salt water experiments -- and apparently salt water was included in the food as was said in the hospital. I had nothing to do with the food or with this particular station, and therefore I cannot say that any particular thing was given to the people.

Q.- Then you say further they were given salt injections as a torture. These salt injections were always given at the end of the experiments to break off the experiment for medical reasons. Do you think it is possible, or don't you think you are mistaken when you say these were given as torture?

A.- The prisoners who came to me during the experiment said that they were given injections and other things.

Q.- Then you say you saw cases of rage.

A.- No, I did not see any cases, but I heard of one particular case.

Q.- Then you say Beiglboeck delivered the so-called troublemakers to the SS. Can you tell me whom he turned over to the SS and why?

A.- Every experimental station had people who resisted. They were either to submit or they were turned over to the camp authorities. In this attack which I heard about, measures were taken which were to pacify the person according to the methods which prevailed in the camp.

Q.- Where was this done?

A.- At the station, as I heard.

Q.- Then according to the rumors, Beiglboeck turned people over to the SS. They would have to be missing. The number of experimental subjects would have had to be less.

A.- I was not a nurse. I did not have any statistics on the prisoners. I cannot tell you whether and when these incidents occurred and what the details were.

Q.- Now you say blood was taken frequently and people were treated unscientifically, which led to severe damage, and in one case to death. Do you know who took the blood and how much?

A.- As an outsider in this station I learned that in addition Dr. Beiglboeck's Luftwaffe assistants undertook this medical treatment, not only at Station 1-A, but also at Station 5, the Luftwaffe station in the laboratory.

Q.- Is it true, as you wrote, I had only superficial insight into conditions?

A.- Yes, that is true. I could not have any insight into the immediate occurrence at this station.

Q.- At the end you say other scientists came who were interested in these experiments. It is not clear. Apparently you mean other experiments, not the sea water experiments.

A.- Here I was referring to the experimental stations in general, but particularly the Luftwaffe experimental station.

Q.- Now, we go on to the affidavit of 14 May. You say there that healthy gypsies came from Sachsenhausen. You still maintain that today?

A.- Yes.

Q.- Then you say that the sick people were eliminated.

A.- Yes.

Q.- There must have been an examination then?

A.- Yes.

Q.- Then you say, I knew only the race of these gypsies. I cannot say what their nationality was. Can you tell me what this racial designation was?

A.- This transport was not composed of Germans, Poles, Italians, Frenchmen, but it was called a gypsy transport.

Q.- What insignia did these men wear?

A.- Mostly the black triangle.

Q.- What else could they have had? You say "for the most part."

A.- Sometimes gypsies had a green triangle.

Q.- That means criminals?

A.- Yes.

Q.- Then you describe your x-ray work. You say Beiglboeck distrusted my findings and objected to them and checked up on them.

A.- Yes.

Q.- Did you have the impression that Beiglboeck understood the business?

A.- I will say only one thing. Dr. Beiglboeck twice performed examinations after my findings and expressed different opinions than my findings.

Q.- I assume that Beiglboeck perhaps understood more than you?

A.- We had doctors in the camp who did not even know how to handle a surgical knife or a hypodermic needle.

Q.- These were war doctors ?

A.- These were SS doctors.

Q: You say, witness, that you had 300 fluoroscope examinations daily and about 100 X-ray pictures?

A: Yes.

Q: How long does this take?

A: That varied. In series examinations it can take two or three minutes.

Q: And how long does an X-ray picture take, with an examination and the findings?

A: With practice, the picture is taken in half a minute, if one has assistants.

Q: Did you have assistants?

A: Yes.

Q: Who?

A: An Austrian and a Yugoslav.

Q: Do you know their names?

A: One of them, his first name was Fritz Sechratek from Vienna. The other one had a Yugoslav name - he was from Leibach -- a medical student.

Q: Then if I understand it correctly, you must have performed about 11,000 fluoroscope examinations per year?

A: In my monthly report, I always had over a thousand; sometimes even more.

Q: Is it not possible that you made mistakes in view of this enormous number, especially since you were trying to help your comrades which must have distracted your attention?

A: If one has a sense of duty, mistakes are not impossible, of course, but they are not likely.

Q: Did not Beiglböck have a Frenchman who helped him with the X-rays?

A: I do not know that. In examining the X-ray pictures, there were various prison doctors working and assistants working in the station.

There were also some Frenchmen in the Luftwaffe station?

Q: How did this French doctor or you evaluate the findings?

A: I evaluated the findings of the fluoroscope and X-ray pictures. I also gave the findings and passed them on together with the pictures. Later, instructions were issued to send only the pictures to the station without an opinion.

Q: How were you supplied with X-ray films?

A: From experience, I saw to it that there was always material available for X-ray pictures.

Q: But you will concede that at that time there was a great shortage?

A: It had been supplied from the previous years when the T.B. station was set up and when we received enough of this material.

Q: With what preliminary diagnosis was the X-ray supplied?

A: From the individual stations, prisoners were sent to the stations, prisoners were sent to the stations for X-ray or fluoroscope, but for the most part without remarks as to what symptoms they had.

Q: Witness, you X-rayed one person three times, and this was "O.B."; that means no findings. Is it not remarkable that so many X-rays were taken?

A: The fluoroscope was objected to because the patient was sick at the station, and since my findings were negative, the request was made again. In no case, I gave the findings; in other cases, Dr. Beiglboeck performed the fluoroscope himself and X-rays had to be taken.

Q: Don't you think that is a demonstration of special care that he checked your findings?

A: My findings were checked because from the beginning there was the fact that I found too few prisoners suitable for the experiments.

Q: And how did you swindle them?

A: I always tried to help the prisoners — my comrades.

Q: That is very nice. But how did you do it technically?

A: In the fluoroscopes, I gave opinions, for example, which would make the person unsuitable for this particular experiment, because only healthy prisoners were to be admitted to the experiments.

Q: Do you not believe, witness, that a clinically trained doctor could realize that you were not giving truthful opinions?

A: I frequently had difficulties in the camp because of this activity.

Q: But not at Beiglboeck's time?

A: At Beiglboeck's time I was checked by the camp doctor because of Beiglboeck's mistrust.

Q: Now tell me, if you gave a negative opinion, then Beiglboeck was suspicious?

A: The physical condition of the prisoner who was brought to the station indicated that there was something wrong with him.

Q: Now let's go on to this man patient whom you recall especially well. Did you talk to this patient when you X-rayed him for the first, second, or third time?

A: During the experiment at this station, one of these experimental subjects came to me several times and I asked him some questions.

Q: In German?

A: Yes, he spoke German.

Q: Now why was this man X-rayed the second time?

A: I don't know what the reasons was.

Q: Excuse me, but you can tell me, was that before the experiment, during the experiment, or after the experiment?

A: It was during the experiments that this man came for an X-ray examination.

Q: You can remember how tall he was?

A: 1.68 roughly I said approximately.

Q: Well, that is not important. But what did he look like? Was he young or was he old?

A: As far as I can remember, he was of middle age, but the condition

of the prisoner before and during the experiments changed considerably.

Q: What were these changes?

A: In his appearance and in his mental condition. That was expressed in his answers.

Q: Can you tell us whether this Gypsy had any characteristics?

A: If it were possible, I would give names and other clues, but I remember this person only from the circumstance that every experimental phase left certain characteristics in my memory.

Q: Well, we can't really expect that, but was the man brought in on a stretcher or did he walk?

A: For the first examination, he was only with an escort; later he was brought in a stretcher.

Q: Can you tell me who was the escort?

A: Prisoners from the station.

Q: Well, we know all these nurses. Don't you know who they were?

A: I don't remember exactly whether the nurses brought him or the experimental subjects themselves.

Q: Now when he came to be X-rayed, what did he look like? What was the color of his skin: white, blue, yellow? What did he look like?

A: The skin color of these people was dark brown, a little grey, because of the physical deterioration.

Q: What did his face look like? Was it swollen or was it sunken?

A: It was more sunken.

Q: You remember this man very well. You even know his weight —

A: Height.

Q: Yes, height, that is what I mean. What did his eyes look like? Were they shiny or dull?

A: To be honest, in my first or second affidavit, I would have put down more of what I knew, but I have already said what I knew about this person.

Q: I don't want you to be angry with me, Mr. Tschefenig. I am

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I am merely doing my duty. I have to ask these things. Did this man complain to you? Did he say, "I have a headache, a stomachache?" Any other complaints?

A: I do not remember these details.

Q: But it was a remarkable case, wasn't it?

A The remarkable thing was the sudden fluoroscopic examination ordered by the station and — he was immediately removed and taken back afterwards.

Q Did you have an X-ray machine with a collapsible table?

A Yes.

Q What did you do to give this patient special care?

A Patients who were brought for a fluoroscopic examination on a stretcher were stood up by the assistants behind the machine and were examined in this position because the fluoroscope examination in a lying position was possible but more difficult.

Q Do you remember the respiration of this patient when he was brought to you the last time? Did he breathe deeply or shallowly?

A He breathed like a sick person; his breathing was short.

Q Did the patient vomit?

A No.

Q Did he cough?

A Those are details which you can't possibly expect me to answer truthfully.

Q But you have a good memory; you remember the height of this man although you had 10,000, 11,000 people a year. It must have been a special case?

A One notices the height, more especially when one has to deal with a person and put him behind the machine. One can more or less remember his height. But in the dark it is not possible to see the color of his eyes or the color of his hair or anything else.

Q Did this patient move his limbs or did he just lie there motionless?

A Those are questions that are impossible for me to answer.

Q How many patients did you have at your X-ray station?

A I don't understand your question.

Q How many altogether? How many per year? How many people?

A I can't tell you exactly.

Q Well, approximately.

A In two years there were several thousands, if not more than 15,000.

Q Isn't it possible -- you say there were ninety gypsies and there were forty-four in the experiment -- isn't it possible that this gypsy was originally intended for the experiment and then was put in a different department or block?

A After the end of the experiments -- it was recorded on the case history from which block the patient came to the station.

Q Do you know when the sea-water experiment was finished?

A The sea-water experiment, as far as I remember, lasted about six weeks.

Q We have records showing that the last X-rays were on the 11th of September; on the 16th of September the station was dissolved. Do you not believe that the other gypsies, the doctors, the nurses would have learned that a man had died?

A He died three days later. After the experiment the subjects had remained at the station, but immediately after the end some people were taken to the normal hospital for normal treatment.

Q Do you know that gypsies stick together?

A No, I do not.

Q That is too bad. Let's assume it, then. Don't you believe that in such a close community the people would certainly have learned of it if three days after the end of the experiment one of them died?

A Events in a concentration camp are such that even a neighbor can die without his comrade learning about it.

Q Now, if I say to you that a number of your former comrades are examined at the same time with you, who say under oath that it is impossible that anyone died. Don't you consider it possible that you have made a mistake?

A I am not aware that during the experiment anyone died at this station, but I do remember very well that there was a death three days

after the end of the experiment. It was one of these persons.

Q Witness, you say "heart and lungs negative"; you say in your second affidavit, "I found no pathological symptoms." Now, what did the man die of? Any doctor will say that is impossible.

A At the internal station we had all cases of sickness. In this case the nurse as well as the doctor did not find any immediate disease, and the opinion already during the fluoroscopic examination which they gave was that this was one of the sea-water experimental subjects.

Q Tell me: who was working at this station where this man was? Who were the doctors and nurses?

A At the internal station there were No. 3 and No. 7 and No. 9. These persons transferred from the experimental station. And I remember that this person came from Station 9 for fluoroscope examination.

Q Were there only SS doctors there or were there prisoner-doctors, too, Frenchmen, Yugoslavs and so on?

A In the hospital there were only prisoner-doctors working.

Q It is generally known that these foreign doctors were very comradely. I ask you, don't you believe if the man was admitted three days before that he would have been given water or milk by these foreign doctors, that he would have been given something to eat, or do you believe that the man lay there helpless for three days?

A Every prisoner was given food and help. Every prisoner-doctor did everything he could to help the patients.

Q You are a medical layman, are you not?

A Yes, and as a layman I had to show the SS doctors what an X-ray machine was.

Q That is terrible. But do you believe that Beiglboeck knew an X-ray machine?

A I don't deny it.

Q And do you believe that Beiglboeck could find the beginning stages of TB -- tuberculosis -- more easily than you could?

A We will leave that to the experience of practice in the concentration camp.

Q Well, then, you agree with me if I say that Beiglboeck had a right to distrust you, because you yourself have admitted that you tried to deceive him, though prompted by honorable motives.

A I have a very high opinion of medical science, but in a concentration camp I had to develop quite a different opinion of these doctors.

Q How often did you see Beiglboeck, talk to him?

A Perhaps two or three times.

Q And how were these meetings? What happened?

A They were not very friendly.

Q And that was because he had to make objections to your x-ray findings?

A Because my findings did not suit his plans.

Q Witness, everyone has enemies. We will leave out the rest of this. Anyhow, you had a Red Triangle.

A Yes.

Q Is it true that after the sea-water experiments, especially in the winter of 1944 and then into the spring of 1945, the mortality rate in Dachau increased considerably?

A Yes.

Q And the number of the sick?

A Yes, in the whole hospital the personnel had typhoid, in the beginning of 1945, and I myself got typhus in April.

Q I ask you, is it not possible that all the experimental subjects who were healthy at the beginning of the experiments and fasted for a few days were healthy but died later because of this disaster in the camp.

A It is possible that prisoners of this experimental station died from the general ---epidemics.

Q. Do you know Fritz Pillwein?

A. Yes.

Q. Do you know Worlicek?

A. I can't remember him very well.

Q. Do you know Marcio?

A. That was a Frenchman at the Luftwaffe Station as far as I remember.

Q. Yes, did you have comradely relations with these people?

A. Yeses people you have just mentioned?

Q. Yes.

A. Yes, as far as I had any contact with them.

Q. You say that at the end of the experiments Professor Beiglboeck drew up a thorough report. It was dictated and in it it was stated that no one died?

A. I do not know of any report. I didn't have any direct connections with the station.

Q. Don't you think that these people, above all the gypsies themselves, who participated, must know better than you that no one died?

A. We had observed that the experimental stations always tried to have as few incidents as possible on their records. Often at other experimental stations the persons who were tortured to death were removed to the normal hospital.

Q. And from this experience in the camp you say...you concluded that Beiglboeck might have acted in the same way and tried to conceal things in the same way?

A. I do not conclude this. I merely say that after the end of the experiments this one patient died at an internal station without any other pathological symptoms. There was nothing except that he had participated in the experiment.

Q. Later, after the liberation, did you perhaps meet any of the

experimental subjects?

A. I do not remember doing so.

Q. Do you consider the people whom I have mentioned-Pillwein, Worlicek, Marcio, and then there was a Dr. Lesse, - do you consider them decent, creditable persons, or do you want to say that in your own experience these people are scoundrels and cannot be trusted to tell the truth?

A. I should like to say that those were decent comrades.

DR. STEINBAUER: Thank you. I have no further questions.

THE PRESIDENT: Any questions of the witness on the part of any other defense counsel? Have the Prosecution any further questions?

MR. HARDY: The Prosecution has no further questions, Your Honor.

THE PRESIDENT: There being no further questions to be propounded to the witness, the witness is excused from the stand.

MR. HARDY: May it please your Honor. At this time I wish to call the attention of the Tribunal to Dr. Steinbauer's request that we call the witness, Worlicek, some time during the day or the next day, inasmuch as he wishes to go back to Vienna on a business trip and if we call him later, Dr. Steinbauer may be out of the city; so, after the testimony of the witness, Mettbach is heard, I would be in a position to call Worlicek as a rebuttal witness, to comply with the wishes of Dr. Steinbauer. I could call him this afternoon. I will prepare him this noon-time and call him this afternoon. Mettbach, I understand, will be called too. If Mettbach is not here at this time, Dr. Steinbauer could continue presenting his documents until Mettbach, arrived.

THE PRESIDENT: I do not know whether the witness, Mettbach, is available at this time. Do you know, Dr. Steinbauer?

DR. STEINBAUER: Your Honors, I have asked Mettbach to be here at noon. I have not seen him for a few days. I assume that he will come, though, and I shall let the Tribunal know. If he doesn't come

I shall submit the rest of my documents and I am willing to have P illwein and Worliceck be examined.

THE PRESIDENT: Very well. You do not... You said you asked him to be here at noon. It is now noon. You don't know whether the witness is here now or not?

DR. STEINBAUER: He will be here at 1:30 to eat; that is the important thing for him.

THE PRESIDENT: I assumed that's what you meant. Well, doctor, you may now proceed with the introduction of some of your documents.

DR. STEINBAUER: The next document which I offer is testimony of D r. Edgar Hermann, Document 7, Exhibit No. 24. It is in document book 1, page 13 to 15. D r. Hermann was a doctor in the camp with Beiglboeck, not in Dachau but in the camp at Tarvis, a troop camp, and not him there. I shall read only from page 14, the first sentence:

"All soldiers honored and loved him; to wards the patients he was like a faithfully caring mother, and he had a kind word for everyone. Russian and Italian prisoners were often treated. Professor Beiglboeck made no difference between them and our own people. He kept them far longer than the time allowed for them as patients, as he knew what a difficult time these people had as prisoners."

The next document which I should like to offer as Exhibit 25 is the affidavit of Lorenz Schmid, Document 8, volume 1, page 16-18. I read from page 16 at the top:

" From December 1943 to March 1945 I was assigned to the 21st P arachute Field Hospital, Tarvis/Kaernten as Stabsintendant of the German Wehrmacht."

Then I skip a few lines:

"Chief physician was Dr. Jaeger; Dr. Wilhelm Beiglboeck was Chief of the Department of internal and infectious diseases."

Then at the bottom:

"Beiglboeck did not know the reason for his assignment, and neither did I. I was only concerned with the affair insofar as, as administrative officer, I had to calculate the traveling and other expenses."

Then he describes Beiglboeck's return and says, in the center of page 2.

"I also asked him what the camp looked like. To this he replied that he could tell me nothing, as he had scarcely ever entered the camp, and had concerned himself only with his work."

The next document is affidavit of Dr. Franz Himmelstoss, which will be Exhibit No. 26. It is document 13, on page 28 of Document Book 1. This is a doctor who worked with Dr. Beiglboeck at Travis. I read Point 1:

"In summer 1944 I worked as a physician in the parachute war-hospital in Tarvis, Upper Italy. At about the same time Dr. Beiglboeck worked there. He came to Tarvis from Dachau and I heard that he had also been in Tarvis before having been assigned to Dachau."

Then point 3:

"Dr. Beiglboeck told me, as well as others, that he was in Dachau but that he had not had much of a chance to see the internal procedure of the concentration camp....Dr. Beiglboeck also told us that the people volunteered for these sea-water experiments because they got better food and did not have to work, and that this was not detrimental to them except that they, to a certain extent, suffered from thirst."

Then point 6:

"Dr. Beiglboeck had no personal or scientific advantages from his experiments; on the contrary he had to postpone his own research work on infectious jaundice--hepatitis epidemica--owing to these experiments."

The next document which I offer is the affidavit of Professor Dr. Carl-Heinz Fischer, as Exhibit No. 27, Document Book 2, No. 30, page 111. Professor Dr. Carl Heinz Fischer is a specialist for diseases of the teeth, mouth and jaws. He says in the third paragraph:

"When I heard about the examinations he carried out there that was the first I had heard of the experiments which were carried out on concentration camp prisoners--I asked Beiglboeck straightway if the concentration camp prisoners on whom he had to carry out the experiments were volunteers.

"Beiglboeck answered this question in the affirmative and I remember that his statements gave me the impression that the persons who were used by Beiglboeck for the experiments were under no compulsion, but that they were really volunteers.

"Furthermore, I asked Beiglboeck if anyone had been killed by the experiments or whether their health was likely to suffer in the future. Beiglboeck answered this question in the negative and I had the impression that in this respect everything possible was done to avoid complications."

The next document will be the report of the German Navy doctor, Dr. Bohr, on clinical observations of shipwrecked persons. This will be Exhibit No. 28. It is document No. 19, Document Book 1, page 65.

It is a long document. I shall read merely from page 5, the summary. He said:

"In this case three people were able to live for 37 days on a water supply of at first 100 cc. It must, however, be remembered that the general conditions were extremely bad.

The space available to each person was very small. Night and day had to be spent in an upright position. In addition, there was the psychic strain. Day after day passed. No land and no ship was sighted.

"Then the first deaths occurred, becoming a daily event. the bodies could be thrown overboard only with greatest efforts by the exhausted survivors. The bodies drifted for days beside the boat which hardly moved in the tropical glare of the sun. An enormous desire for life and similar courage is required to overcome all this."

Then I shall offer a document, an article in the English magazine, NATURE, by Dr. Parker who also deals with sea water experiments. This will be Exhibit 29. It is in Document Book 1, Document 18, on page 56. I shall read the first sentence showing that the problem was discussed elsewhere.

"The possibilities of obtaining potable water from sea water by some simple method suitable for use on lifeboats and in similar circumstances have been much discussed during the last few months in the daily Press and in other quarters. Some of the statements made and the opinions expressed have indicated lack of knowledge of the scientific and practical aspects of the problem and of the possibilities and impossibilities."

Then he closes with a summary which I should like to read to the Tribunal on page 64 of the document book.

"Conclusion. It may be that investigations now being

made will lead to some practicable method, suitable for use in lifeboats, of obtaining drinking water from sea water by simple distillation or by the use of base-exchange and acid exchange materials and chemical precipitating agents. Any method proposed, however, must be submitted to stringent tests before it is recommended if undue risk of failure with serious consequences is to be avoided. Meanwhile arrangements have been made to provide lifeboats with larger quantities of drinking water than has previously been the practice."

The next document is an excerpt from an English book by Critchley on shipwrecked persons, in the supplemental volume, Document 37. The title is, "Shipwrecked Survivors". I would like to ask the interpreters to read this document in English because my English pronunciation is not very good and then to translate it into German. It is on page 44 at the bottom.

THE PRESIDENT: I don't find that document, counsel. I may have it here.

MR. HARDY: The prosecution does not have a copy. If counsel may wait until after recess I may have it among my papers. If not, arrangements could be made by the defense counsel to obtain six copies of the English copy of it.

THE PRESIDENT: We have no copy of Document 3.

DR. STEINBAUER: No, this is only a supplement. This document was handed in later and I got the copies from the General Secretary's Office so the prosecution must have it already.

MR. HARDY: I don't have it at this time, your Honor. If it would be convenient I would ask Dr. Steinbauer to put off introducing this document until I have the opportunity to peruse it.

THE PRESIDENT: Counsel has some other document he may offer?

DR. STEINBAUER: At the moment I have no other documents. Yes -- the next document is an affidavit of a doctor who is also at Tarvisio, Dr. Joachim Gloger, which I would like to offer as Exhibit 31. This is Document 25, first document in Document Book 2, page 98. I shall read from page 98, at the bottom, that:

"Not only German soldiers but Italians, Yugoslavs, Russians and Poles -- partly PoW's and partly axis workers or civilians -- as I saw for myself, had the same self-sacrificing medical and human care."

Then at the bottom of page 3:

"Professor Beiglboeck at first performed the sea water experiments on himself, drinking daily half a liter of sea water for, as far as I remember, five days in order to create by this preceding self-experiment his own impression of the experiment." page 100a.

Then at the bottom of page 101:

"He told me that during the tests he constantly carried through clinical controls. By intravenous injections of physiological sodium chloride solution, etc., or drinking of fresh water, the patients recovered very quickly. Permanent damage was not to be expected from the test as only acute and reversible changes would have occurred. Every lasting damage could be excluded about which he got certainty by means of a thorough physical examination at the end of his stay in Dachau. Accordingly, no death occurred."

The next document is a statement of Dr. Ernst Gros which I offer as Exhibit 32. It is in Document Book 1, Document Book 1, Document 9, page 19. Dr. Gros says:

"I, Dr. Gros, born on 1 February 1907, German subject,
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surgeon by profession, residing at 14 Rheingaustrasse, Wiesbaden-Bieberich, herewith declare on oath that I know the following facts at first hand: I know Professor Dr. Wilhelm Beiglboeck through my collaboration with him in the field hospital in Tervis. In 1944 he was Chief of the Medical Department while I was in charge of the Aseptic Surgical and later on of the entire Surgical Department."

Then I go on to page 3, page 21 of the document book:

"Dr. Beiglboeck described to me the purpose and execution of the prescribed experiments. For these experiments only volunteers had been taken and they had received increased rations for some time. He said that he had conducted the experiments in a way that they could not cause any serious general damage."

Then I continue on the same page. He says:

"He said that he had himself undertaken or supervised the after-treatment of the experimental subjects and that it had been surprising to observe how rapidly they recovered from the anhydremic condition to subjective well-being. Immediately after his return he told me that he was glad that he had not a single death to regret."

Then I omit one sentence and continue:

"Moreover, knowing his mentality and his concept of the medical profession, I could believe and understand his version to the assignment and his satisfaction with the humane execution of the experiments. I assume that Dr. Beiglboeck already knew me well enough at that time to confide to me frankly and without restraint these matters which distressed him so much."

And then in the last paragraph:

"I should like to add that in our hospital wounded Americans and wounded Englishmen were tended and treated

with the same care and the same interest as our own wounded soldiers and in this connection I can name our patients Major Olen Bryant (0789090 T 41) and Lt. Robert F. Moran (0773385 T 43/44) of the American Air Force, who lay in my department for some considerable time before the collapse."

And the next document which I offer as Exhibit No. 33 is in Document Book 1, page 90.

THE PRESIDENT: What is the number of that document?

DR. STEINBAUER: Document 22, page 90, Exhibit 33.

This is an article from the First Medical University Clinic in Vienna on liver punctures by Dr. Walter Kofler. I shall only read one sentence, page 2, Document page 91 of the document book, at the top:

"Performed after a well-administered local anesthesia, the liver puncture is nearly painless and hardly inconveniences the patient."

THE PRESIDENT: Counsel, it is now time to go into recess. At this time the Tribunal will recess until two o'clock. It will reconvene at two o'clock. The Tribunal will now be in recess.

(A recess was taken.)

AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 17 June 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed with the offering of documents.

DR. STEINBAUER (Defense Counsel for the defendant Beiglboeck):
I submit as Exhibit #30, an excerpt from the book "Shipwreck Survivors" by Lieutenant Critchley.

THE PRESIDENT: The Tribunal does not seem to have copies.
Are German copies of this document available for the Tribunal now?

DR. STEINBAUER: There are none. It hasn't been translated.

THE PRESIDENT: That will be furnished later, doubtless. See that they are.

DR. STEINBAUER: I now would like to ask the interpreters, from this document which will become Exhibit 30, on the bottom of page 140 to read the paragraph, and then, on the following page, page 62, regarding the loss of weight, and then to translate it into German, if the Tribunal permits.

INTERPRETER: Shall I read it, Your Honor?

THE PRESIDENT: Yes, the interpreter will read the portion of the document mentioned.

INTERPRETER: Page 140, last paragraph:

" Loss of weight. The professional faster Levanzin lost 13.25 kilos (or 21.9 per cent of his original weight) in thirty-one days. The emaciation from starvation is less rapid, however, than that from dehydration. There 4 lb. may be lost a day. In men adrift, the profound loss in weight is due to the combination of inadequate food and water. Exact figures are generally lacking, but losses of as much as 5 stone have been known..."

And page 62 or page 141 of the document book:

"The victim may have lost considerable weight-50, 60, or 70 lb.,

as in some of our cases, but with the resumption of full diet, weight is very quickly regained, indicating that the loss of water had been responsible for much of the emaciation..."

MR. HARDY: Your Honor, it was the intention of Dr. Steinbauer to have that translated into German simultaneously with the English reading thereof--the two paragraphs.

INTERPRETER: Your Honor, we can't read over the English and German channels at the same time. It has to be done subsequently.

THE PRESIDENT: Yes, I understand that, but it is now being done in German, isn't it?

INTERPRETER: Yes, Your Honor.

DR. STEINBAUER: And now, I would like to ask you to read the last paragraph Page 63, that is Page 143 of the document.

INTERPRETER: "Although dehydration is thought to lower bodily resistance, it is significant how very rarely there develops at this stage any of the acute respiratory complications, infective disorders or rheumatic, fibrositic, neuritic or nephritic symptoms, traditionally described as 'sequelae of exposure to cold and wet.'"

DR. STEINBAUER: May it please the Tribunal, for the time I have no further documents to submit.

My witness, Ernst Wettbach, in spite of the request to appear today, did not come today. Efforts are being made to bring him here now. Therefore, I would like to request the Prosecution, since they, I believe, have two witnesses here--Vorlicek and Pillwein--perhaps they can be examined now. I don't know where they are but perhaps that is possible.

MR. HARDY: It is possible to call the witness Vorlicek at this time. The prosecution, however, does not intend to call the witness Pillwein. The prosecution submitted an affidavit of the witness Pillwein and the defense counsel requested him as their witness, having had him in Nurnberg for a considerable time. Defense counsel,

in lieu of calling him to the stand, submitted an extensive affidavit from the witness Pillwein and the prosecution does not desire to cross examine the witness in view of that fact.

However, before calling the witness, I might ask Dr. Steinbauer whether he intends to introduce these charts and records of the seawater experiments which have been under discussion here for a considerable period of time. The prosecution intends to introduce them if he does not. However, I believe that he requested that he wishes to introduce them. I would like to hear from him on that subject.

DR. STEINBAUER: In regard to the last question, Your Honors, I recall the incident that arose during the examination of my client in regard to the fever curves. As the fever curves are in the possession of the Prosecution and since Professor Ivy stated that they are a suitable basis for an opinion about the experiments, I believe that the prosecution should therefore submit these documents. I should also like to use this occasion in order to clarify a further question.

Please let me finish.

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MR. HARDY: We should discuss this subject concerning the documents before we go on to another subject. I have extensive number of things to take up concerning these documents. Perhaps we can finish that before Dr. Steinbauer goes on with something else.

THE PRESIDENT: I think it might be well to hear Dr. Steinbauer's second phase of this matter before going into the matter of documents. Counsel for the defendant may proceed.

DR. STEINBAUER: (Counsel for the defendant Beiglboeck): As far as the documents are concerned which are under discussion here, the matter are as follows: The prosecution based its evidence on Document Book 5 which contains minutes of meetings and statements of witnesses regarding the seawater experiments. Now, I made efforts to gather evidence material, and around Christmas time, I found two notebooks. One that had a black cover and another notebook which I would like to call the gray notebook. Professor Beiglboeck was very happy about the discovery of these two notebooks because they contained a number of facts which gave him the possibility of reconstructing his experiments in his mind. He had been a prisoner since March or the beginning of April, 1945, and a prisoner under investigation pending trial.

On the 20th of January, Professor Ivy was here, and I was here, and I was informed that this professor was interested in the seawater experiments. Professor Beiglboeck on this occasion showed these two notebooks to Professor Ivy. Both of us assumed that it was a purely scientific interest of Professor Ivy's; and according to his entire attitude, it was entirely scientific because

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he was interested in the seawater question. Professor Ivy said at that time that he especially studied the 1,000 cc Group; he said: all of these fellows drank water, and that it was a very diligent, scientific work, and too bad that it was undertaken in a concentration camp. These two notebooks -

MR. HARDY: Your Honors, --

DR. STEINBAUER: (Counsel for the defendant Beiglböck): Just a moment, let me finish, please. These two notebooks were never in the possession of anyone else, but were always in my own possession. On the occasion of this discussion, at which a member of the prosecution staff was also present, it was found out that the so-called black book had the names of some of the experimental subjects on the front page. I kept these notebooks, I had them in my custody. And in the beginning, or the middle of May, I don't remember the exact date anymore at the moment, I was requested to give these notebooks up. At that time, I stated that I would not hand them over because they contained in part the names, and I do not feel that I have the right to help the Prosecution in their research. I also stated that there are names on the fever charts, and that I should not submit them, even if the danger exists that the expert opinion of Professor Vollhardt should not be accepted by the Court.

I should like to remark here that Professor Vollhardt used these fever charts as the main basis of his testimony, in addition to some other documents Professor Beiglböck had; and he used these technical fever charts. When I received the order to hand them over, I stated that I should give them up only without the names. So that the Tribunal should not think that I was trying to deceive the

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Court, I told a number of my colleagues before at that time, and they can testify to that fact, that if the Court wants to see these names, I shall give them to the Court at the moment when the trial is concluded.

Now, my client committed this stupid act and put me in a bad light, too, in public. I then discussed with my colleagues whether I should at that time take the legal consequences and resign from my position as defense counsel. I did not do so for the following reasons: When I agreed to take over the defense of Professor Beiglboeck, I had heard only good things about him, but he was represented to me as a very weak and sensitive character, a man who is subject to moods. I was informed that he was torn from an excellent career, chased away from his position, robbed of his apartment, robbed of his books, his library, that he had a serious nervous breakdown, and in that condition he was delivered to the Vienna Police Department in the Spring of 1946. I seldom have had as much trouble as with the defense of the defendant Beiglboeck, because it was very difficult with a man who is as absolutely broken to reach some kind of an understanding with him. He only assured me again and again that he was innocent and that he was being persecuted unjustly. I tried to convince him that this was not true. I can state to the Court here, and witnesses can confirm this, that in the middle of February and at the beginning of May I prevented him from committing suicide. That Beiglboeck is still in a condition as good as he is now we can thank all of his comrades in the dock for, who assured me again and again that he is a nice fellow, and they will do their best to cheer him up. Therefore, I believe that it is not in accordance with my legal obligations as defense

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counsel, now that when I have already finished my case and when the prosecution's case in chief is finished, -- I didn't know the prosecution would bring new witnesses now and new evidence -- I don't consider it in accordance with my duty to leave him alone now because right now is the time when he needs more help than ever; and therefore, I believe that I should continue my difficult task further. This matter brought me into an unpleasant position myself. I want to emphasize expressly that my cooperation with the prosecution was always a good one, a good relationship. I think that Mr. McHaney can also confirm that I said I should submit the list of the names, and if the Court desires it, I shall be glad to do so. Before I do so, I should like to see the witness; I should like to do that at the end. I have this cover with the names here, and as I said, all of my colleagues, who are always together with me in the morning, were told by me, before this incident occurred, that I should submit this list to the Court so that the impression should not be created that I tried to deceive the Court. The motive was that in the case of the experimental subjects which we were concerned with, they were primitive, simple people who, as I already tried to make clear from the gypsy book, in large part belong to families who are listed by the public authorities as asocial. I found 17 among these names who belong to asocial families here in Bavaria. I do not want to say anything about the experimental subjects, who suffered terribly. But if the matter should be followed up further, one would have to get a police record of everyone, and the family tree, and then one would certainly find that my statements are correct.

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It is a tragedy that there is a certain confusion of persons here, Dr. Beiglboeck says Dr. Popper is guilty, and he confirms again and again that he never did a thing to his colleagues; and that especially he was not present at the time when Popper was dismissed from the clinic, and that - the professors who are now in Vienna can confirm this - he regretted these incidents at the time and even disapproved of them. I cannot say anything more about this whole affair.

THE PRESIDENT: Counsel is mistaken, if I understand him correctly, in one statement, and that is that the Tribunal directed that these books, documents, records, and charts be turned over to the Prosecution. The Tribunal took them into custody with directions that they remain in the custody of the General Secretary only, to be examined by either counsel for the Prosecution or the Defense in the presence of someone designated by the Secretary General. The Tribunal never directed that they should be turned over to the Prosecution, and I have no reason for supposing that they ever were turned over to the Prosecution.

MR. HARDY: Your Honors, a correction there. During the examination of the witness, the expert Vollhardt, the testimony of Vollhardt was based on the charts; and at that time, the Prosecution had requested that they be allowed to study the charts so that they could properly cross-examine the witness; and at that time, the Tribunal issued the order that Steinbauer give up the charts for study. I think that is perhaps what he is referring to.

THE PRESIDENT: Technically, the papers were still

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within the custody of the Tribunal. I had forgotten that. I think counsel is correct as to that, but that was after they had been examined by -- that was before Beiglboeck took the stand. The Tribunal is of the opinion that Dr. Steinbauer, counsel for the defendant Beiglboeck, is not subject to censure in this matter. The Tribunal appreciates his forth-right direct statement with these matters and feels -- that is, the Tribunal is presently advised upon his statement that his conduct has been that of an honorable lawyer. The Tribunal feels that, or is of the opinion that all these records and documents, having been before the Tribunal, having been shown to the witnesses, having been exhibited to the Tribunal, should now be made exhibits in the case, because a great deal of the evidence concerns those documents. The Tribunal would direct that these documents should remain in the custody of the Secretary General and become exhibits in this case, and be marked as exhibits in some appropriate manner and that this should include the covers of the books so that the books will be in exactly the same condition as they were when in the possession of the defendant Beiglboeck. That will be the order of the Tribunal, and I understand that counsel for the defendant Beiglboeck is ready to comply with that order of the Tribunal, am I correct, counsel?

DR. STEINBAUER: Yes, Your Honor.

MR. HARDY: Would it be possible for Dr. Steinbauer to reconstruct the names that were erased from the charts or does he think that beyond the realm of possibility?

THE PRESIDENT: The erasure of the name from the charts is not referred to by the defendant Beiglboeck. The defendant Beiglboeck doesn't admit erasing them. He later admits he had altered the stenographic notes on the back of one of the charts.

If these charts can be reconstructed by adding the names -- many of them were admitted by the witness on the stand, and the record will show many of the names. Inasfar as the names can be restored to the original document it should be done.

MR. HARDY: Not on the original document, but on a separate document.

THE PRESIDENT: On those daily charts -- I don't know how you refer to them.

The Tribunal approves Dr. Steinbauer's conduct to continue under these circumstances and represent his client in this trial.

MR. HARDY: Will defense counsel introduce the exhibit or will I introduce it as prosecution exhibit?

THE PRESIDENT: The Tribunal understood that counsel for defendant Beiglboeck stated at one stage of the proceedings these would be offered as defense documents. In case Dr. Steinbauer does not care to take that position they will be offered and will be received as prosecution exhibits.

MR. HARDY: Thank you.

DR. STEINBAUER: I shall give the number 34 to this document, to the document and the notebook, and after the session I shall also give the cover to the prosecutor so that the names on this cover can be seen by him, and I shall give the original as a document to the Court. For the moment I shall need it for the examination of the witness.

THE PRESIDENT: These documents are still officially in the custody of the Secretary General pursuant to order of the Tribunal. When they

are marked, they shall be an exhibit and remain in the custody of the Secretary General, as all exhibits are in that office.

MR. HARDY: In that connection, when Dr. Steinbauer turns over the cover and list of names, they should be turned over to the Secretary General, and the prosecution can peruse them by referring to the Secretary General for them. Now, in addition to that there is the problem of the reproduction of these documents. After a period of three or four more days we will be well through this complex of sea water experiments, and I ask that the Tribunal direct the Secretary General's office to have these charts reproduced. I don't think it is necessary to reproduce the two books but we would like to have a photostat copy made of each chart and the back of each, which contains penciled statements, so that the defense counsel may retain a photostatic copy and the prosecution likewise.

THE PRESIDENT: The Secretary General is directed to reproduce these charts by photostat, including these stenographic notes and any other notes which may be found on the back of these charts, and make these available to the prosecution and to the defense.

MR. HARDY: If there is no further discussion concerning these documents and the charts, I would like to call the witness Vorlicek to the stand.

THE PRESIDENT: Has counsel for defendant Beiglboeck anything further?

DR. STEINBAUER: No, I have nothing else to say. I only have one request: that I may be permitted to submit other documents, especially also an expert who never had the opportunity to look at these charts, and that the affidavit which I submit in the document book can be supplemented by the affidavit of Professor Glatzel, and later then shall be permitted to submit the supplementing affidavit, and not submit it now.

THE PRESIDENT: Counsel may submit documents within a reasonable time that he desires to submit them to the Tribunal. They will be admitted.

The Marshal may summon the witness Vorlicek.

(JOSEPH VORLICEK, a witness, took the stand and testified as follows.)

THE PRESIDENT: The witness will stand, hold up his right hand, and be sworn, repeating the oath:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

Has the prosecution prepared a witness sheet for this witness?

MR. HARDY: Due to the fact he was called without notice I haven't.

THE PRESIDENT: One should be prepared and filed as soon as convenient.

Counsel may proceed.

DIRECT EXAMINATION

BY MR. HARDY:

Q. Witness, your name is Joseph Vorlicek?

A. Yes.

Q. Will you kindly spell your last name, please?

A. V-o-r-l-i-c-e-k.

Q. When and where were you born?

A. I was born in Berndorf, near Vienna.

Q. Will you kindly outline briefly for the Tribunal the extent of your education?

A. For eight years I went to elementary school, public school.

Q. Did you have any further education, witness?

A. No.

Q. What was your occupation prior to the time you were arrested for treason in December 1939?

A. I was a truck driver.

Q. Did you always live in Vienna?

A. Yes.

Q. Are you an Austrian national?

A. Yes.

Q. When was the first time you were placed under arrest?

A. 1939.

Q. Had you ever been arrested for any criminal offense prior to that time?

A. No.

Q. What was the reason for your arrest in 1939?

A. Preparation for high treason.

Q. Who arrested you?

A. The Vienna Gestapo.

Q. Were you given a trial?

A. Yes.

Q. And you were sentenced to imprisonment?

A. Yes.

Q. And for how long?

A. Four years in the penitentiary.

Q. Did you fulfil that sentence?

A. Yes.

Q. After fulfillment of your sentence were you then released?

A. No, then I was sent to Dachau.

Q. When did you arrive at Dachau concentration camp?

A. On the 6th of March, 1944.

Q. How long did you remain at Dachau?

A. Until the liberation by the American 7th Army.

Q. When you arrived in Dachau, what were your duties? Were you assigned to a work detail?

A. No, first I was sent to Block 15. That was for eight days; then I entered a commando work detail.

Q. At any time did you ever work in the concentration camp hospital?

A. I was only a patient in the concentration camp hospital.

Q. Did you ever work in the experimental wards of the hospital?

A. I assisted my comrade Pillwein.

Q. Do you know Professor Dr. Beiglboeck?

A. Yes.

Q. How did you happen to know him?

A. I was in Block 11 where at the time experiments were being conducted.

Q. How did you happen to get your job as a nurse in the experimental ward wherein the sea water experiments were being conducted by Dr. Beiglboeck?

A. Pillwein came to me and asked me whether I would like to help him in his work. The food was better there.

Q. What was that name, please, who first asked you?

A. Pillwein, Fritz.

Q. That is Pillwein?

A. Yes.

Q. When you arrived at the block wherein the sea water experiments were being conducted, had the experiments begun?

A. Yes.

Q. What did you notice concerning the conditions in the experimental station during the course of these experiments?

A. That the people had to suffer from hunger and thirst.

Q. Do you know any of the particulars concerning the differentiation between the experimental groups?

A. As far as I can remember, experiments were carried out with sea water and Schaefer water.

Q. Do you know just what specific test the experimental subjects were put to?

A. No, I don't know that.

Q. Were those particulars made known to you or were they not available to you?

A. I was not convinced about that, and I didn't know what it was all about either.

Q. Did you know a Yugoslavian, a night nurse at the experimental station?

A Yes.

Q What happened to him?

A He came into a penal company because he fell asleep and, therefore, the Gypsies had the opportunity to get water; and then he was put out in the penal company.

Q What is a penal company, witness?

A Well, that differs - they report to the outlying commandant. One was worse than the other.

Q What reason was he sent to this penal company, was that because he fell asleep on duty at night?

A Yes.

Q Who sent him to the penal company, do you know?

A That went through Beilboeck.

Q Well, now were the experimental subjects healthy throughout the experiments?

A Yes.

Q Did they become weakened at all?

A Oh, yes, they did become weaker.

Q Then, they were not healthy throughout the experiments?

A Through the entire experiments, no, but at the beginning they were.

Q Did any one of the subjects ever become violent?

A I don't know.

Q Well, did any of them ever have cramps and as a result lie on the floor in anguish?

A Yes.

Q Can you tell me about that more specifically, witness?

A I entered the room and there was between two beds a patient, he was lying there, having a cramp attack, and I didn't know what was going on.

Q What happened to that patient?

A He helped himself, that is, in about a half hour, he went back

to bed.

Q Were the experimental subjects allowed to leave the room wherein they were kept during the experiment?

A No, that was strictly forbidden.

Q Was the room locked?

A Yes.

Q Did some one guard the room at all times?

A Yes.

Q Were not the experimental subjects allowed to go out into the courtyard next to the experimental block?

A Only those of them who were not at that moment used in the experiments.

Q Were they physically able, some of them, to go out in the yard, if allowed?

A Yes.

Q Witness, in the course of your duties in the experimental station, did you have to do manual labor or that is, wash floors and so forth?

A Yes.

Q Will you tell the Tribunal the incident when you spilled some water on the floor and had to mop it with a cloth?

A Yes. On order of Pillwein I had to give seawater to the Gypsies. In part it was mixed with water and through my carelessness I spilled some water. I went to fetch a rag and I wiped it up, and when I had finished I forgot the rag. The Gypsies took this rag and sucked the water out of it. In the experiment that Beiglboeck conducted he got the ideathat the patients had drunk some water, and by threats the Gypsies betrayed me or told that it was I. Beiglboeck came to me and asked me why this happened. I told him what had occurred and he threatened me, if that should ever happen again then I would be put in the experiments myself, would be experimented on myself.

Q Were you sure that he was earnest in this threat?

A Yes.

Q Well, did you feel great danger because of the threat?

A Certainly, that was a matter of course in a camp.

Q Did Beislaboeck ever shout a curse at the experimental subject?

A Frequently, even.

Q And, he was extremely severe with them?

A Not always, only sometimes.

Q Did the experimental subjects ever ask for relief and want to quit the experiments?

A No, they didn't try that, because they knew that it wouldn't do any good anyhow.

Q Well, were these experimental subjects volunteers, witness?

A As far as I know they were not.

Q Well, did they ever volunteer for any special command or some such thing?

A Well, this is how it happened. Since I know the Slavic language, and there were some Czechoslovakians among them, I spoke with them and they told me that they came from Auschwitz concentration camp; they had been asked who wanted to volunteer for good outside assignments; some of them reported, and only when they came to Dachau did they find out what it was about.

Q Did the experimental subjects indicate to you that they were happy to be experimented on?

A No.

Q Do you know the nationality of the various subjects?

A For the most part I do.

Q Can you tell the Tribunal the nationality of the various subjects, as near as you can recollect?

A There were Czechs, Poles, Hungarians, Austrians, and Germans.

Q How do you know that these subjects were of those various nationalities?

A Because I know the Czech language; therefore, I could speak to the Poles and the Czechs.

Q Now, during the course of the experiments, that is in the experimental station, itself, did you ever see any one die as a result of the experiments?

A No.

Q Do you know whether or not any one died while in the experimental station?

A Only once the experiment lasted for three months. Once after the experiment I met a Gypsy and he told me about a comrade who had died. I did not ask him why he died.

Q Just a moment, witness, I want to confine your testimony at this point to your knowledge of the conditions, and whether or not deaths occurred while the experiments were being conducted in the experimental station. We will get to the deaths in the hospital or in another section of the camp later. Now, during the course of the experiments are you aware of any deaths?

A No.

Q Were any of the experimental subjects severely ill, to your knowledge?

A No.

Q Can you tell us whether or not it would have been possible that some one could have died during the course of the experiments in the experimental station without your having known about it?

A That, I can't tell.

Q What happened to the experimental subjects at the completion of the experiments?

A They were dismissed and turned over to the working block.

Q Did some of them go to the hospital?

A I don't know anything about that.

Q Well, were all 44 subjects dismissed at the same time or had some of them been dismissed intermittently throughout the experiments?

A As far as I know all of them were dismissed at once, at the same time.

Q Did you have the impression that some of the experimental subjects

were ill and that they would not live much longer?

A I did have that impression, yes; that these people would not live much longer.

Q At the completion of the experiments did you, then, assume new duties?

A I don't know.

Q Did you assume new duties, you, yourself?

A No.

Q Well, where did you go to work after the experiments were completed?

A Then I became a patient in my block.

Q Were you able to ascertain whether or not any of the inmates used in the experiments were in the hospital?

A I don't know.

Q Now, would you kindly tell the Tribunal about the conversation you had with the experimental subject named Franz, after the completion of the experiments?

A About three months after the experiments I was already in another block; I met one of the patients and his name was Franz. We had a conversation and he told me during that conversation that one of his comrades had died already.

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Q.- Did he mean one of the persons used in the experiments?

A.- Yes.

Q.- All right.

A.- I asked him whether he died as a result of the experiment or through hunger typhoid. I can't remember any more what his answer was to my question.

Q.- Do you have any idea whether he tried to convey the thought to you that he died as a result of the experiments or whether he died because of the conditions in the camp; or can't you remember that specifically?

A.- I can't remember any more.

MR. HARDY: I have no further questions, Your Honor.

THE PRESIDENT: I have just been informed by the Marshal that the witness Metzbach is not available for today and his presence cannot be procured this afternoon. Can you use the witness Haagen? Do you desire to call the witness Haagen?

MR. HARDY: The witness Haagen is being called by Dr. Tipp, but he cancelled calling the witness Haagen. The witness Haagen is going to be on the stand for two or three days, Your Honor. If Dr. Tipp can be located today we will call the witness Haagen, that is, if the cross examination of Vorlicek will not take up too much time this afternoon by Dr. Steinbauer.

THE PRESIDENT: Did you say that Dr. Tipp had cancelled his application for the witness?

MR. HARDY: No, he had told the Marshal not to bring the witness up this afternoon, but to bring him up in the morning.

THE PRESIDENT: The Tribunal will now be in recess, and during the recess we can ascertain what can be done.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: I understand that counsel for the Prosecution has concluded his direct examination of the witness.

MR. HARDY: I have one or two questions in summation to ask the witness, if it please the Tribunal.

THE PRESIDENT: Proceed.

BY MR. HARDY:

Q. Mr. Vorlicek, have you ever appeared before a Tribunal as a witness before?

A. Yes.

Q. Before this Tribunal I want you to understand that you can clearly testify as to any facts which you have knowledge of concerning the activities in the experimental station at Dachau wherein the sea water experiments took place, and I want you to feel perfectly at liberty to express any opinions you have concerning the experiments and any of the activities in connection with the experiments. Now in summation, Mr. Vorlicek, it is my understanding that you state that the subjects used did not volunteer for the experiments, is that correct?

A. I can't imagine volunteering in a camp.

Q. By any stretch of the imagination could you imagine that they were volunteers in the true sense of the word?

A. No, I can't believe that.

Q. Did the experimental subjects themselves tell you whether or not they volunteered for the experiments?

A. They told me that they did not volunteer.

Q. Who told you the story concerning the special Kommando that they volunteered for while in Auschwitz?

A. The Czechs told me about that.

Q. How often did you talk to the experimental subjects?

A. Every day.

Q. And you were certain from your conversation with these experimental subjects that some of the subjects were Poles, some of them were Czechs, and some were Austrians and Hungarians?

A. Yes.

Q. Were there any Russians among the experimental subjects?

A. I do not know that.

Q. Were there any Germans among the experimental subjects?

A. Yes.

Q. Do you have anything further you wish to tell the Tribunal concerning these experiments?

A. No, I have nothing else to say.

MR. HARDY: No further questions, Your Honor.

THE PRESIDENT: Defense counsel may cross examine the witness.

CROSS EXAMINATION

BY DR. STEINBAUER (For the defendant Beiglboeck):

Q. Witness, how often have you been examined as a witness on the sea water question?

A. Once.

Q. But I have two affidavits, both from the 9th of May. Who took down these affidavits and why were there two?

A. That statement was given at that time to Dr. Alexander only once.

Q. But we have two affidavits which were signed by you. I have them here.

A. Probably there are just two copies.

Q. Did you dictate it or did you just sign it?

A. I dictated it myself.

Q. Now I must ask you, long before that in the spring of 1946 weren't you examined once by someone else?

A. Yes, but nothing was written down.

Q. Well, that was a long time ago. The Vienna police took a record because I read it myself.

A. That is possible, but I didn't sign anything.

Q. Well, you were examined by the Vienna police, too, you remember that?

A. Yes.

Q. Now I should like to ask you the following: As soon as the gypsies arrived, did they come to the experimental station or later?

A. About a week later.

Q. And what happened during this week?

A. I don't know.

Q. Were people already undergoing the experiments? Were the people already drinking sea water or starving, or what was going on?

A. I don't know. I only know that when I came there new experiments were begun.

Q. Is it right that you came there because your friend Pillwein asked the professor to take you in and this facilitated the situation for you?

A. Whether that went through Beiglboeck I don't know. Pillwein came and got me himself.

Q. I don't imagine Pillwein had the authority to take people into the experiments on his own initiative, that is, as nurses?

A. I was not taken as a nurse.

Q. You were an assistant nurse.

A. No, I was not an assistant nurse. I was a patient. I just helped Pillwein.

Q. You helped the nurse?

A. Yes.

Q. And what was the name of the station? What number did it have?

A. I don't know.

Q. Perhaps you remember that it was roman numeral one over arabic one?

A. I cannot say.

Q. Do you know a station I a?

A. No.

Q. But at what station were you yourself when you were in the hospital?

A. In 9/4.

Q. Do you know the typhoid station?

A. Yes.

Q. What was the number of that?

A. I don't remember.

Q. Now you say, "Before I came there, a Yugoslav nurse who was on night duty was thrown out because he left the key in the door and therefore the patients were able to go out and drink water." And then you go on to say, "Afterwards one of the greens - that is a criminal - came who beat the people and he was transferred too."

A. No, he was before the Yugoslav.

MR. HARDY: Your Honor, may I request that the affidavit signed by the witness Vorlicek be submitted to him so that he can follow Dr. Steinbauer.

THE PRESIDENT: The affidavits may be submitted to the witness.

(The witness is given the affidavits.)

BY DR. STEINBAUER:

Q. Do you have it? One of your statements begins, "At the time of the occupation of Austria..." and the other one begins, "After I was arrested in 1939 by the Gestapo..."

A. Yes.

Q. Now, I am taking the one which begins, "At the time of the occupation of Austria..." You say, "About July 1944 I was transferred to the experimental station."

A. Yes.

Q. "These experiments had in part already been started when I came there."

A. Yes.

Q. And now comes the story about this man with the green insignia and the Yugoslav. Is it not true that it was the other way around?

A. No, no. First the green one and then the Yugoslav came.

Q. Well, please read what it says in the affidavit. It says exactly the opposite.

A. There must be a mistake here.

Q. It's incorrect what it says here.

A. Yes.

Q. Can you remember the name of this man with the green insignia?

A. Only his first name: Max.

Q. Max - oh, yes, that famous Max. Then you say, "The experimental subjects were divided into groups. One group was injected with a red serum." I have asked so many people and nobody knows any red serum. Are you color blind, Mr. Vorlicek?

A. No, I was wrong. That was when the blood was taken.

Q. Yes, that is very important. There is a red poison. You have to be very careful. Then this red serum is wrong?

A. Yes.

Q. And what did you think it was?

A. I had no idea.

Q. Could it have been blood which had been through the centrifuge?

A. I don't know.

Q. Then you obviously withdraw this testimony that one group was injected with red serum as being incorrect?

A. Yes.

Q. Now you tell the incident about the guinea pig. You say that Beiglboeck used to yell at the gypsies frequently. Why?

A. Because they didn't do what they were supposed to.

Q. Well, if you were in charge of an experiment or in charge of a labor detail and the people were always doing something else than they were supposed to do, would you praise them or reprimand them?

A. Certainly, I would scold them.

Q. Then can't you understand that Beiglboeck reproached you for helping the prisoners drink water?

A. What did you say, doctor?

Q. Do you admit that Beiglboeck had a certain justification in making charges against you and reproaching you for helping the prisoners drink water?

A. I cannot say.

Q. How did Beiglboeck treat the people who were not in the experiment?

A. He treated them well.

Q. Did he take an interest in their food?

A. Pillwein and I went and got the food.

Q. And you certainly saw to it that your comrades were fed decently.

A. Decent food means something else to me.

Q. Well, today we don't have enough to eat either. It always depends on the circumstances. You and Pillwein distributed the food?

A. Yes.

Q. Did Beiglboeck see to it that it was distributed correctly?

A. No, he didn't.

Q. Did he have any reason to mistrust you?

A. No.

Q. Do you know that he threw Max out because he distributed the food unjustly?

A. I only heard that.

Q. Do you really think you can say that Beiglboeck would have made you into a guinea pig?

A. Yes.

Q. Why?

A. That was a matter of course in the camp. If one had anything to do with the SS—

Q. Was Dr. Beiglboeck in the SS?

THE PRESIDENT: The translation didn't come through.

BY DR. STEINBAUER:

Q. You have to wait, witness, until the translation comes through.
I ask you, was Professor Beiglboeck in the SS?

A. I assumed that he was.

Q. What uniform did he wear?

A. Brown.

Q. A brown uniform?

A. Yes, yellowish brown.

Q. And what kind of shoulder insignia did he have?

A. I don't remember.

Q. Did Beiglboeck ever beat anyone?

A. No.

Q. Did he threaten anyone with a revolver?

A. No.

Q. Did Beiglboeck give the people cigarettes?

A. Yes.

Q. How many cigarettes did the people in the experiment get?

A. I don't know exactly - two or three.

Q. Two or three cigarettes. In addition to these two or three cigarettes, did Beiglboeck give them other cigarettes?

A. I don't know.

Q. Do you consider it possible that he did?

A. Yes.

Q. Did he help the gypsies in any way?

A. I don't know.

Q. Do you know that one of the gypsies had a so-called escape point on his insignia?

A. Yes.

THE PRESIDENT: Wait a minute, witness. After your counsel propounds a question to you, you must wait a moment before you answer the question so that the interpreters may complete the interpretation of the question.

THE WITNESS: Yes.

BY DR. STEINBAUER:

Q Witness, if someone performed an experiment well, didn't Beiglboeck give him more cigarettes? Think it over.

A I don't know anything about that.

Q Now, let's come back to this escape insignia. Did one of the gypsies have this escape point?

A Yes.

Q Do you perhaps remember his name?

A No.

Q Was there a gypsy who had two escape points?

A I can't remember that either.

Q Do you know that Professor Beiglboeck tried to help these people get rid of their escape points?

A Piliwein told me about that.

Q You heard about it, then. Now about the nationality of the people: In your affidavits you said that you think -- look at your affidavit -- that they all spoke German?

A Most of them.

Q Most of them spoke German; even the Poles spoke a little German. Then can one not conclude that these people might have been from Eastern Silesia or from West Prussia?

A I cannot say.

Q Then there were three Czechs. Mr. Vorlicek, I think you are of Czech descent, aren't you?

A Yes.

Q But you are from Vienna.

A Yes.

Q It is possible that they were Czechs who were not from Bohemia?

A They told me that they were from Czechoslovakia.

Q Couldn't they have been from Slovakia, from Bratislava, for example?

A No, from Moravia.

Q Very well, Moravia. Then you said there was one German. Do you think that's right?

A No, I think there were two or three.

Q I can tell you that there were more.

A It is possible.

Q Then your statements are not quite correct, are they?

A One can't always remember everything so well.

Q The papers of the gypsies, about their nationality, you didn't see.

A No.

Q Was it customary in a concentration camp to keep one's papers?

A No.

Q Where were the papers kept?

A I don't know.

Q But everyone had a number?

A Yes.

Q Do you know what triangle these people wore?

A Black triangles.

Q Who was given black triangles in the camp?

A The asocial people.

Q Aha! Do you think it is possible that Beiglboeck tried to help his people but that the bad people in the camp administration didn't keep their promises?

A I cannot say.

Q Now, I must put to you that you said the following to the Vienna police --

(Witness looked through the affidavit.)

Q (Continuing) -- it doesn't say that in there. "After the liberation I met a gypsy in Munich who told me, 'I am getting along very well; no one died from the experiments' -- and now comes the in-

portant thing: 'but many died later during a famine.' Now, think carefully, so that we don't have to get the police records from Vienna. Do you remember saying that?

A I can take an oath that I did not say that.

Q Do you think that the Vienna police official invented it?

A In the first place, I wasn't in Munich; I was only in Dachau.

Q Maybe it says a gypsy from Munich.

A That's right.

Q I ask you above all, did you more than a year ago when it was officially written down, say that people later died in a famine?

A Yes.

Q Who kept the records in the camp during the experiments?

A What kind of records?

Q Records as to the course of the experiments, how much water was drunk, whether people had fever, and so forth.

A The records of fever and pulse, partly Pillwein and partly myself.

DR. STEINBAUER: Mr. President, might I ask that the fever charts be produced, inasmuch as the witness said he helped to record them, that they be shown to him for identification? They are right here.

THE PRESIDENT: Yes, the fever charts may be shown to the witness.

(Charts handed to witness and examined by him.)

Q Are these the records which you kept at the time?

A Yes.

Q Who compiled these records?

A Pillwein and I.

Q Didn't some of the prisoner-doctors write some of these records?

A I don't know.

Q Were the people weighed?

A Yes.

Q Who weighed them?

A Pillwein.

Q Did he always record the weight?

A Yes.

Q Can you show me where he recorded the weight and tell me in particular who entered these final weights at the right, at the top?

A I was never present when that was done.

Q You don't know?

A No.

Q How were these people quartered? What kind of accommodations were they given? Were they in dirty barracks, or in clean beds --

A They had nice beds.

Q Did it look like a stall or like a decent hospital?

A No, it didn't look like a stall, but one can't say that it looked like a decent room either.

Q I am afraid I don't understand you.

A It was more like a camp.

Q But it was clean and neat.

A Yes, it was clean.

Q And then when the people left the experiment, were they given food that was more than the camp food or less?

A It was the same as the regular camp diet.

Q Weren't they given additional food?

A I don't know anything about it.

Q Didn't you give out milk just after the experiments were finished?

A I don't know anything about it.

Q But you must know about it, if you helped to distribute the food to these people every day.

A I wasn't there every day.

Q Oh, you weren't there every day? You have already said that

nobody died during the experiments, is that true?

A Yes.

Q Now, when were the experiments finished?

A Three weeks later, when I came.

Q When was that? Can you give us the date?

A I can't say.

Q Was it January, February, March or August?

A It was in July or August.

Q Couldn't it have been September? Look at the charts.

Look at the charts. The date is on there.

(Examined by the witness.)

A Yes, August --

Q And -- look carefully.

(Charts again examined by witness.)

A August, September.

Q That's right: August and September. The last man finished drinking his sea-water and then what happened?

A Then special experiments were performed.

Q Mr. Vorlicek, you don't understand me. When the experiment proper was finished, completely finished.

A Yes?

Q Then what happened? Did they all stay together? Was the laboratory left there or were things taken away?

A No, it was dissolved. The people were sent back to the Block.

Q That's the time I want to talk about. Who packed up the things, the bottles, equipment, scales and so forth?

A I don't know.

Q Did you not help?

A No.

Q Were the gypsies still there?

A I don't know, because I went back as a patient.

Q When did you leave?

A I can't say that.

Q Was the hospital where you were sent far away from Station

11?

A There were five Blocks between them.

Q Did you have an opportunity during this period to see one or another of these people at the beginning of September, the middle of September?

A No.

Q You didn't see any of them?

A No.

Q You didn't see Pillwein either?

A Yes.

Q Who examined the blood?

A They were Frenchmen.

Q Did they know how to do that?

A I don't know.

Q Were they locksmiths, electricians?

A No, they were doctors.

Q. I see, they were doctors. Now we will talk about the weighing. Did the people gain weight or lose weight?

A. They lost weight.

Q. How long did they lose weight?

A. All the time.

Q. As long as they were in the experiment?

A. Yes.

Q. Do you know, since you helped to write the records, whether, at the end, after the people were out of the experiment, their weight was higher or lower?

A. That I do not know.

Q. Did you see anybody with a high fever?

A. At the most, up to 38 or 39.

Q. 38, or 39. Was that at the beginning of an experiment or at the end?

A. I can't remember that.

Q. Were you ever present when an experiment was stopped or changed?

A. Yes.

Q. How was that done?

A. The patient was sitting and Dr. Beiglboeck undertook the experiment and when the patient began to cry...

Q. No, that is not what I want to know. I want to know how the experiments were stopped in the case of the individual persons. Were they given something to drink, or to eat, or did they just say "You can go now?" Did they give them an injection? What happened?

A. He went back to bed.

Q. When he was given water again, did he recover quickly, or did it take days?

A. I don't know.

Q. Pillwein says in his affidavit that at the end of the exper-

iment all the experimental subjects were still there and they were given a few days special care and then released for labor. Can you confirm this sworn statement of Fritz Pillwein?

A. No.

Q. Why not?

A. Because I didn't take any interest in it.

Q. Do you consider it incorrect?

A. No.

DR. STEINBAUER: I have no further questions.

THE PRESIDENT: Any questions of this witness by any other defense counsel? Any re-direct examination by the Prosecution?

DR. HOCHWALD: No further question on the part of the Prosecution, your Honor.

THE PRESIDENT: The witness is excused from the witness stand, there being no further questions to be propounded to him.

Does the Tribunal understand that the witness, Haagen, is now available?

MR. HARDY: The witness Haagen is now available, your Honor, and will be called by the defense counsel.

DR. TIPP (Counsel for the defendants Schroeder and Becker-Froysong): With the permission of the Tribunal I should like to call the witness, Haagen, for my two clients.

THE PRESIDENT: The marshal will summon the witness, Haagen.

DR. TIPP: Mr. President, the witness has been brought from French custody. It is to be expected that he will be put before a Military Tribunal in France. I should be grateful if the Tribunal would inform him that he does not have to testify anything that will incriminate himself, but that, whatever he does say must be the truth, in the customary form.

MR. HARDY: Before the Tribunal advises the witness, may I request how long Dr. Tipp anticipates the examination of this witness

will take on his part and how long it will take on the part of defense counsel Fritz for Rose and if any other defense counsel will want to examine him?

THE PRESIDENT: Will counsel enlighten us upon that point?

DR. TIPP: I will need about a day and a half, Mr. President. I believe that Dr. Fritz will not take very long; I think 2 or 3 hours will cover Dr. Fritz' questions, but I cannot say for sure. I also know that my colleague, Dr. Nelte, for Handloser, would like to ask a few questions, but this will not take very long.

MR. HARDY: It seems to me, Your Honor, that a day and a half will be a considerable length of time for examination of this witness. I should think the defense counsel could cooperate with one another and substantially reduce the time.

THE PRESIDENT: The Tribunal would appreciate defense counsel expediting examination of this and other witnesses to the greatest possible extent.

EUGEN HAAZEN, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. Witness--do you hear me?

A. Yes, I hear you.

Q. You are now about to be sworn as a witness before this Military Tribunal I, trial of the case, the United States versus Karl Brandt and others. I desire to inform you that you are not required to answer any questions which may be propounded to you by any party or by the Tribunal itself if, in your judgment, answering those questions would tend to incriminate yourself. Do you understand that?

A. Yes, I have understood that.

Q. If at any time you are in doubt upon any matter you are privileged to ask the Tribunal's advice upon that subject. Do you

understand?

A. Yes, I understand that.

THE PRESIDENT: The witness will now be sworn.

BY JUDGE SEBRING:

Hold up your right hand and be sworn, repeating after me the oath:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and all nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

DIRECT EXAMINATION

BY DR. TIPP:

Q. Professor, you are here as a witness for the first time before this Tribunal. To avoid difficulties I should like to point out to you, purely from a technical point of view, that to make the translation easier you will have to make a pause between question and answer and wait for the interpreter.

Now, Professor, your name is Dr. Eugen Haagen. You were born on the 17th of June 1898 in Berlin. At present you are a prisoner in the Court Prison in Nurnberg. You are a doctor of medicine by profession and your specialty is hygiene and bacteriology,--is that correct?

A. Yes, that is correct.

Q. Now will you please describe briefly to the Tribunal your medical training and career?

A. From 1919 to 1923 I studied medicine in Berlin. In 1923 I took the State examination. In 1924 I was licensed as a physician and at the same time received the Degree of Doctor of Medicine. After that I studied internal medicine as an intern and later as an assistant at the First Medical Clinic, at the Charite, in Berlin, under Geheimrat Hiss.

Q. Now, professor, please describe your specialized professional training.

A. In 1926 I became a scientific assistant in the Reich Health Office in Berlin, in the Bacteriological Department in Berlin-Dahlem. There I founded the department for virus and tumor research, a new field of research, which was to be set up in the Bacteriological Department of the Reich Health Office at the time. Already as an assistant I did quite a bit of --I may say-- fundamental work in the field of experimental virus and tumor research in this position. In 1927 I already became a member of the German Central Committee for fight against cancer. In 1928 I received the annual prize of the Reich Health Office. Since I was very much interested in learning the American methods of virus research, I went, in 1928 as an assistant to the Rockefeller Institute for medical research in New York, where I remained for about one year. There I worked with Dr. Rivers on experimental questions of smallpox and herpes, especially immunology research with the aid of tissue cultures. As a result of this work....

DR. TIPP: Please speak more slowly with this difficult material, witness.

A. The result of this work was published in American scientific journals. During this time I was merely on leave from the Reich Health Office. In 1929 I returned there. In 1930 I became Regierungsrat and was appointed Extraordinary Member of the International Health Department of the Rockefeller Foundation in New York, with the assignment to work at the yellow fever laboratory of this Institute and to try to breed the yellow fever germ, work which had been attempted already for years without any success. I succeeded in 1931-32. This work was published in American and German journals. I succeeded, for the first time, in making artificial pure cultures of the agent causing yellow fever. Important work of American scientists was built up on this, and this culture made it possible to develop a vaccine against yellow fever

which is used throughout the world today and was of great significance for the Allies in tropical warfare. After this 3-year interruption of my work in Berlin I returned to the Reich Health Office and was appointed a member of the Reich Health Office.

A. (cont.) There I continued to work in the Bacteriological Section as head of the department for virus and tumor research and when in the course of the incorporation of Prussia into the Reich the Bacteriological Section was dissolved, my colleagues and I moved to the Robert Koch Institute which is also in Berlin. On the 1st of March 1936 I became department chief and professor there. I continued to work there too in the same research field; that is, virus and tumor research. In 1938 I received the Hans Arendsen prize for my work in the field of infectious diseases. On the 1st of October 1941 the Robert Koch Institute made me a regular professor of bacteriology and hygiene at the University of Strassbourg where, at the same time, I became director at the Hygiene Institute. I remained there until Strassbourg was taken in November 1944.

For reasons connected with the war, on approximately the 1st of September 1944 I already took part of my institute to Oberschneidernau and, when we had to evacuate this town, we went to Thuringia -- that is, Sealfeld on the Saale -- where in April 1945 I was captured and put under arrest by the Americans.

Q. May I ask you witness to tell the Court briefly about your fate after you were taken prisoner.

A. From Sealfeld I was taken to an American interrogation camp in France. There I was interrogated about a number of questions in the field of virus diseases and from there I was sent to various American PW and internment camps.

On the 10th of November 1945 I was brought to the court prison in Nurnberg and interrogated thoroughly about my work.

Q. Professor, were you interrogated here by the Office of Chief of Counsel for War Crimes?

A. Yes, I was interrogated on behalf of this office on the subject.

Q. And the subject of the interrogations, what was it?

A. I was interrogated on the same charges which are the subject of the indictment in this trial.

Q. Were you shown documents in the course of this interrogation, Professor?

A. Yes, I was shown documents, documents which I have not seen again among the records of this trial.

Q. Can you tell us the result of this interrogation?

A. I was not told the result of the interrogation but after about two months, in January 1946, I was taken from Nurnberg to the Hersbruck internment camp. From there I was sent to Plattling. There is another internment camp. Then on the 15th of June 1946 I was released in Plattling by the American Army to Saalfeld in Thuringia and I returned there.

In Saalfeld I received a call from the Russian Military Government to head a newly founded institute for virus and tumor research in Berlin. I answered this call, and I worked in this institute which is attached to the Institute for Medicine and Biology until the 16th of November 1946 when, on the occasion of a visit at Zehlendorf in the American sector, I was suddenly arrested by a British military policeman without any warrant or any document. I was taken away by force and was kept hidden for two and a half months in an English prison in Minden. This was obviously a case of kidnapping.

Only in January 1947 I got out of this prison. I was turned over to the French authorities and was taken to Strassbourg where I have been in custody ever since. On the 16th of May I was transferred here.

Q. In connection with this trial, Professor, we are interested in the military positions which you held during the war. Will you please tell us briefly what they were?

A. From 1936 to 1939 I was in the Reserve. I was always in a position of a consulting hygienist with the air force physician, of the first air force in Berlin. On the 26th of August 1939 I was called up for war service as Oberarzt in the Reserve, again as consulting hygienist for the physician of the First Air Force. My activity as consulting hygienist, as the name says, consisted primarily of advising the air

force physician on hygienic questions. This activity made it possible for me, even during the war, to continue working at my civilian job at the Robert Koch Institute.

When I was called to Strassbourg on the 1st of October 1941 I was first given a leave. Then I was no longer working as consulting hygienist. As late as the summer of 1943, at the request of the chief of the medical service of the Luftwaffe, through the mediation of Professor Rose, I resumed the position of a consulting hygienist, this time for air force physician, Reich, who was also in Berlin. My position was again the same advisory activity and I was able to continue my work at the institute in Strassbourg, that is, my research and my teaching activity. My activity as a consulting hygienist thus consisted of primarily of trips to check hygienic conditions with the troops; secondly, of drawing up factual reports which could be important for the air fleet physician; and I held this position until the collapse.

Q. Your military ranks, Professor? Could you list them, too?

A. As I said, on the 26th of August 1939 I was called up as an Oberarzt (First Lieutenant) of the Reserve; then on the 1st of April 1941 I became Stabsarzt, (Captain); then on the 1st of January 1944 I was promoted to Oberstabsarzt, (Major).

Q. Then your promotions were quite the normal thing?

A. Yes, quite normal.

Q. And one more question on this subject, Professor: in your various positions, civilian as well as military, who were your superiors?

A. First, I shall discuss my civilian positions. As a member of the Reich Health Office my immediate superior was the president of the Reich Health Office and the next superior agency was the Reich Ministry of the Interior. As professor and department chief at the Robert Koch Institute my superior was the president of this institute and this, as long as the Institute was under Prussia, the Prussian Minister of the Interior; later, when it became a Reich institute, the Reich Minister of the Interior.

As a professor at the University of Strassbourg, I was immediately under the rector and the curator of this university and also under the Minister of Education.

My military superior during the war was always the same air force physician of the First Air Force or air physician, Reich, in Berlin. I may point out that, as consulting hygienist, I was not in a position to issue any orders myself, but if I wanted to have orders carried out I had to make suggestions to the air force physician which he passed on as orders to the subordinate agencies or units. My reports, mostly factual reports, went directly to the air force physician and, when he considered it advisable or when there was an order to that effect, he passed them on to the Chief of the Medical Services of the Luftwaffe.

Q. Professor, did you not hold another position which might be of interest in connection with this trial?

A. Yes, I had another position as hygienic consultant of the health director of the government in Alsace.

Q. That was after you became a professor in Strassbourg?

A. That was from 1941 on.

Q. And who was your superior in this position?

A. In Strassbourg?

Q. Yes.

A. That was the health director with the Alsatian government.

Q And a final question, Professor, were you a member of the NSDAP?

A Yes, I was a member of the NSDAP.

Q Did you hold any office or rank in the party?

A No, I had no office and no rank in the party.

Q Now let's go on to your work, Professor. What specific fields of work did you have in detail?

A As I have already said my work was that of virus and tumor research, including tissue cultures which has a great significance in this type of research. I dealt primarily with virus research because parts of the tumors are among the virus diseases. Here I was primarily interested in discovering the causes, that is finding the virus responsible for the various virus diseases, breeding this virus, making it microscopically visible and in connection with that, questions as to immunity. Then I also dealt with the development of vaccines against virus diseases. Virus production on a large scale, however, never interested me. Since this is not the duty of a research worker in normal times but the war created conditions so that for military reasons and also for general reasons it became necessary to accept such vaccine production assignments.

Q Well, we will come back to vaccine production later. I should like to ask you now, witness, since when had you worked in this specialized field?

A Since I entered the Reich Health Office, since 1926.

Q And what diseases, Professor, were you specifically interested in?

A In the course of the years I worked on quite a number of virus diseases. I can only mention small pox, herpes, influenza, various forms of inflammation of the brain, psittacosis, then tumor diseases and then the diseases which are of interest primarily in this trial, typhus, yellow fever, epidemic jaundice or hepatitis and influenza.

Q Professor, your work is very important here and in connection with your work, the research assignments which were issued to you. First

I should like to ask you to speak as generally and briefly as possible on research assignments in general.

A From the files which I have seen here I have seen that the term "research assignment" has been considerably misused. The term "research assignment" is not a clearly defined term with only one meaning. It must be divided into various groups, the majority of the research assignments came about because the scientists asked for assistants because large funds are generally not available to the institutes for research but in Germany we had the Reich Research Council which developed from the unfortunate position of German science and during the war we had an opportunity to ask the medical inspectorate of the various branches of the Wehrmacht for research assignments. Then one made an application, one indicated the subject and the problem one wanted to work with, and the reasons why this work was important and why one needed assistance. If this application was approved, then as a rule this involved financial support but this was especially important during the war. In these research assignments we had an opportunity to obtain material and equipment which had become scarce because of the war and also an opportunity to employ additional personnel and to have some of the more important workers deferred. It also happened, but rather rarely, that the agency which I have mentioned, issued the research assignments. These were generally development assignments, especially in the field of technique, physics and chemistry. I cannot remember any such assignments in my field of bacteriology and particularly virus research. The third group one cannot call research assignments, but simply production assignments, which the institute did not like to accept, for instance, vaccine production, that was the duty of industry, in this case, the serum and vaccine industry, but during the war we had to subordinate such objections and be willing to take over production assignments.

Q Witness, will you please look at document book 8, look at page 6. The document I should like to discuss with you is Prosecution Exhibit No. 137, Exhibit 189. It is a letter from you to the Rector of the University at Strassburg dated the 7th of October 1943. In this letter you ask that the Hygiene Institute be recognized as a war plant and under the numbers 1 to 5 you cite a number of research assignments. Will you please tell us, Professor, under which category of the question you have just mentioned the various assignments fit?

A I will go into the individual assignments briefly one after the other. The first assignment is a production assignment for yellow fever vaccine given out by the Reich Aviation Ministry and the Commander in Chief of the Luftwaffe from the Medical Inspectorate. This is purely a production assignment.

The second one also issued by the Inspectorate of the Medical Service of the Luftwaffe is an assignment on typhus vaccine, again a research assignment.

The third assignment is also from the Aviation Ministry, Commander in Chief of the Luftwaffe, Chief of the Medical Service of the Luftwaffe, subject, influenza. It was a pure research assignment to discover the cause of the disease. It included the development of a practical procedure for the development of vaccine, a research and development assignment, but not a production assignment.

The fourth assignment was issued by the Reich Research Council and refers to typhus. It is also a research assignment.

The next one that is listed is also an assignment of the Reich Research Council on hepatitis, or epidemic jaundice. This was a subject I was especially interested in.

Q Now this Tribunal is especially interested in the following question, witness: In working on these research assignments were you under the supervision of the offices which had given you those assignments?

A No, in my capacity as Director of the University Institute I was working only under the Rector and Curator of this University and then the Reich Ministry of Education.

Q In such research assignments and production assignments, was it customary, Professor, for the work of the scientists to be checked in any way?

A No, there was no right to check the work nor any duty, as an Institute director is in an independent scientific position and no one got the idea of exercising any control. If one had a research assignment one was merely obligated at certain intervals to report on the progress of the work and with the aid of these reports the agency that issued the assignment decided whether it was worth while to continue the work, or not, that is, whether it was worth while to issue further funds and so forth.

Q: Now, was it not another duty, that is, to give an accounting of the money?

A: Yes, of course, accountings were generally given at least that was the case with us. The money was administered by the University Treasury and the accounting went through that office.

Q: Professor, you said you worked with research in small pox, yellow fever, jaundice, influenza, and typhus. Now, I should like to go on to various research work. Going over these research assignments, Mr. President, it will be necessary to use certain specialized terms reportedly as was shown in the Rose case. In order to avoid long theoretical explanations I have asked the witness to make a brief affidavit of this subject. I believe that will serve the Tribunal's purpose better than a long discussion. I have put the document in Becker-Freysong Supplemental No. 6, which is not ready yet. I have the necessary number of English and German copies here and I should like to ask the representative of the General Secretary's office to distribute these to the Tribunal, the Prosecution, and the interpreters so that I may read it now.

Professor Haagen was in America for many years and he has given the affidavit in German as well as in English. There are two originals. I think that is the best way to avoid difficulties. I offer this as Becker-Freysong Document 75, it will be Exhibit 51 for Becker-Freysong, and here is the original.

THE PRESIDENT: Copies of the affidavit in the German language will in due time be furnished to the Tribunal I assume?

DR. TIFF: Yes, I will bring it tomorrow morning. I am afraid I don't have enough right now. So that it will be understandable, Mr. President, I should like to read the most important parts of this affidavit. No. I deals with the professional concern of the witness. I have already gone into that. I needn't read that. I begin on page 2 - 11.

II. Therefore I believe myself able to give the following short statement about the terms, used especially in virus research.

- III. 1). Virus means originally poison or better living poison.
Today virus means a group of germs of a special kind.
2). Virulence - the total action or effect of the virus.

DR TIPP: Virulent is the adjective.

- 3). The action of virulence is established essentially by the presence of a pathogen and an antigen factor.

a) pathogen - pathogen action - capacity to produce a typical manifest disease.

pathogen for human being - the virus produces a disease in human being.

pathogen for animals - the virus produces a disease in animals. A virus may be either exclusively pathogen for human being or pathogen for animals or pathogen for both at the same time.

b) antigen - antigen action - capacity to produce a specific immunity or specific antibodies against a later infection in question.

4) One doesn't speak of a virus virulent for human beings, but of a virus pathogen for human beings.

5) Only living virus is virulent, that is to say active in some way. Killed by physical or chemical means it loses at the same time its activity or virulence, that is to say the antigen and pathogen factors disappear. Then the virus is avirulent. It is not able to produce immunity or disease.

6) Infection - introduction of a germ or active parts of it into the body without regard to the special action.

7) Not every infection must result in a manifest disease.

8) Toxic - poisoning action.

Toxin - poisoning part of virus with a pathogen and an antigen factor.

9) The correct English term for Impfung is inoculation - artificially produced infection.

vaccination - the purpose of the inoculation is immunization.

The German term "Schutzimpfung" corresponds with the English vaccination.

10. Immunization - production of specific protective substances or anti-bodies against a later natural infection with the respective disease. Vaccination is therefore an artificial immunization.

11. An immunization against virus diseases is possibly exclusively with living, i.e. virulent virus, which is however no longer pathogen for human beings.

12. Therefore a vaccine against virus diseases has to contain living, i.e. virulent virus, the antigen or immunizing action of which is preserved, but the pathogen, disease producing action for human beings of which has disappeared.

13. The virus used for vaccines is modified or attenuated by animal passage or culture so much that the pathogen action is suppressed, the antigen action however is preserved. The virus grown in the animals is pathogen to the, but no longer for human beings.

14. The introduction of living virus containing vaccines is therefore a real infection with virulent virus which is however not more pathogen for human beings.

DR. TIPLER: There follows the signature and the certification.

Mr. President, I now come to the work of Professor Hagen in detail. Since we have only five minutes I believe it would be better to start tomorrow morning.

THE PRESIDENT: The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

Official transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 18 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain that all the defendants are present in the court?

THE MARSHAL: May it please your Honors, all the defendants are present in the court.

THE PRESIDENT: The Secretary General will note for the record the presence of all defendants in court.

The witness is reminded that he is still under oath and is also reminded that he need not answer any question which he feels would incriminate himself.

Counsel may proceed.

EUGEN HLAGEN - Resumed

DIRECT EXAMINATION - Continued

BY DR. TIPP (Defense Counsel for defendants Schroeder and Becker-Freyseng):

Q Professor, yesterday afternoon we stopped with your general work. Now, I should like to go on to the individual experiments with which my two clients are accused. First, I should like to discuss your work in the field of influenza. Professor Schroeder and Dr. Becker-Freyseng are accused of allegedly criminal human experiments in this field.

There is no evidence of this in the documents and I therefore do not know on what the prosecution bases its assertions, but I can assume that the connection between my two clients and such allegedly criminal experiments is supposed to have been through your person. Will you

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please describe briefly to the Tribunal how the work in the field of influenza came about and what work you carried out in detail?

A. First, I must protest energetically against the charge repeatedly raised by the prosecution that I carried out criminal experiments on human beings. I have found this several times in the documents.

My influenza work goes back to 1935 and 1936. The nature of the influenza germ was debated for decades. The so-called "Pfeiffer" bacillus was, for years, considered the cause of influenza, but in the big epidemic of the first World War, where there were millions of cases, the opinion began to prevail that influenza was caused by a virus-like germ, but only when virus research had reached a certain level - that was after the World War, in the 1930's - could we systematically begin to try to discover the cause of influenza. In several countries, first in America, it was possible to isolate a filterable, invisible virus, the specific qualities of which were soon ascertained by animal experiments. Attempts to breed this virus followed, and a number of immunology works. In approximately 1936, we heard the first news, again from America, that it had been possible to develop a living virus vaccine against influenza, and soon we could begin to realize and practice the plan.....

MR. HARDY (Interrupting): May it please your Honor, it doesn't seem to me that it's necessary to go back to the years 1936, 1937 and 1938 and discuss the whole development of the influenza problem. The question here is whether or not Dr. Haagen experimented on human beings with influenza in a concentration camp, whether or not they were volunteers, and whether or not he received orders from the Medical Inspectorate, if Dr. Tipp is interested. I don't see any reason to discuss the whole history of influenza. The point is as simple as that.

THE PRESIDENT: The witness may continue. This preliminary talk should not consume too much time, but he may make some preliminary explanation if he desires.

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THE WITNESS: (continuing answer) I had intended to be brief anyhow, but I believe in the interest of what will follow it is necessary to give a brief introduction.

Successful vaccinations were performed in America, -- in America, England and other countries. This question interested us in Germany too, of course. In 1936 I succeeded in isolating a good virus strain from an influenza case which became known as the Blau strain, and the vicissitude which I proved in an experiment on myself. Then we went on to develop a vaccine. I carried out the first work while I belonged to the Robert Koch Institute. The work was continued in Strasbourg. In the winter of 1943-1944, which was the year when there was very serious influenza epidemic in England, we were able to perform prophylactic vaccinations. The epidemic, as usual, went from the west to the east, so that we had to expect the epidemic to spread to Germany. At the request of the Director of the Medical Clinic, and that is in Strasbourg, Professor Stein, we inoculated about 200 persons of the clinic personnel with this influenza vaccine. There were only very slight reactions observed with a part of the persons who had been vaccinated, which did not, however, reduce the working efficiency of these persons in any way. At the same time I vaccinated in the Schirmeck concentration camp about 20 women who worked in an especially dangerous spot, and that is to say they were taken from various barracks to their working places, and in this way if the first influenza cases occurred they would be in danger themselves, but more especially that they would carry the germs to the other barracks. So that there was an outspoken need of immunization here for this group. Here

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again there were no reactions which in any way effected the working ability of these women.

Q. Professor, how did the developmental work for this vaccine take place?

A. Well, vaccine production was essentially based on the experiences gathered in other countries. There were Francis and Mengal in America, and other scientists.

Q. Thus, if I understand you correctly, you had a vaccine which was proved in practice, you took it from literature to produce your own vaccine?

A. Yes, we used the experiences gathered from the publications of other authors.

Q. Now, before the vaccine was used in practice, did you carry out animals experiments on yourself?

A. Yes, of course, we did. The immunity studies were performed on myself and experiments on myself and my laboratory personnel to test the effectiveness of the tolerance, especially of the vaccine. We did this for our own protection because we expected influenza, and because then we would no doubt be in very close contact with the germ.

Q. Now, the decisive question, Professor, which will interest the prosecution most; to prove the immunization effect of this vaccine did you ever perform experiments by first vaccinating with this vaccine and then testing the effect by the introduction of the pathogenic virus?

A. No, we never performed such experiments. I do not know what the purpose of such experiments could have been. I may point out the procedure of first we have been able to test the immunity quite clearly through laboratory methods.

Q. Then in conclusion, Professor, I can say you worked

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in the field of influenza, you produced vaccine according to the procedure published by foreign officials, you used in practice in small amounts as animal and self experiments, and the experiments which are under discussion here were not performed by you in this field, is that true?

A. Yes, that is true. We never performed experiments such as are mentioned here by the Prosecution, but we performed the vaccinations which are known the world over for years.

Q. Now, a formal question, Professor, from the document NO-137 which was discussed yesterday we see that you received a research assignment from this field; you told us yesterday that this was a research assignment in the real sense, that is research on the disease itself. Now, I should like to ask you, did you receive a production assignment from the Medical Inspectorate to produce vaccine?

A. No, we never received an assignment to produce vaccine from the Medical Inspectorate of the Luftwaffe.

Q. Did you report the results of this work, your research assignment, to the Medical Inspectorate?

A. I no doubt sent the customary reports. That was in the conditions when a research assignment was issued.

Q. With whom, Professor, did you speak within the Medical Inspectorate about your work?

A. In general I spoke to the Consulting Hygienist, to the Chief of the Medical Service, Professor Rose, and to the competent gentleman in the hygiene referat, that was Stabsarzt Attmer at that time, and the money question I talked over with the administrative officials, that was Referat Wenzel.

Q. Did you talk to Professor Schroeder about your

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work?

A. Yes, I am sure that I must have talked to Professor Schroeder about this work. I told him more or less what I have just described.

Q. Can you tell us when these conversations or one of these conversations took place?

A. I believe definitely that that was at the end of May 1944 when Professor Schroeder visited me in my institute at Strasbourg. And I remember I told him my wishes about obtaining animals, obtaining materials, but I cannot remember all the details of the conversation after such a long time.

Q. Did you talk to Dr. Becker-Freyseng about this subject, witness?

A. That is possible of course, especially in connection with the obtaining of animals. That was a big problem for me. Dr. Becker-Freyseng dealt with this question when, --I think it was in July 1944 when he visited me in Strasbourg. Of course I told him my worries about animals.

Q. Now, one basic question, on this occasion, Professor. You said before something about the Hygiene Referat, and as referent is mentioned Stabarzt Attmer; can you perhaps explain in which Referat of the Medical Inspectorate your work was dealt with?

A. That can really be seen from my own activity as well as from the name of the referent. I worked on hygiene questions, and a competent referent for hygiene at the time was Stabarzt Attmer.

Q. Professor, the prosecution holds the point of view that Dr. Becker-Freyseng was the competent man in

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whose Referat hygiene matters were dealt with, and that according to the prosecution you supervised and directed this work?

A. I personally know nothing about that. At any rate I dealt only with Stabarzt Attmer, who did this work in the hygiene referat. That was more or less the first authority for me and if I wanted to go to a higher authority I went to the Department Chief. If I wanted to go to a still higher agency I went to the Chief of Staff in the Inspectorate, and finally to the inspectorate of the Medical Service. In all the years when I had official business to do with the Medical Inspectorate, I never had any dealings with Dr. Becker-Freyseng with the exception, as I said, of obtaining animals, but this question only became acute in the summer of 1944.

Q. I shall now leave this subject, witness, and go on to the next charge of the indictment to be dealt with, jaundice experiments. Professor Schroeder and Dr. Becker-Freysong are charged with responsibility for experiments on epidemic jaundice, which, according to the Prosecution, were performed in the concentration camp Sachsenhausen by Dr. Dohmer and you and also in the concentration camp Natzweiler by Dr. Dohmen and you. I should like to ask you, Professor, first of all to describe your work in the field of epidemic jaundice; please keep the introduction as brief as possible.

A. In 1941-42, I have to say first of all, we received the first reports about the threat of epidemic jaundice, especially in the eastern theater of war, that is in the Balkans and Russia. From a study of this disease, I already knew that the cause may be a filtrable virus and since I saw certain connections between influenza and hepatitis epidemica, therefore it was obvious that I should perform ethnological tests on hepatitis epidemica. This was in collaboration with Professor Falk, who gave me material from his military hospitals, but since it had to travel for some time it did not prove of value. Then I relied on the clinic in Strassbourg and received material from Professor Stein, the director of the internal clinic there and through the mediations of the chief physicians of the research hospital in Strassbourg they gave me the necessary material for my first tests.

Q. You spoke of material, witness; will you please tell the Tribunal what material it was and how this material was obtained?

A. It was essentially the eliminations of the patient's liquid from their stomach, intestines, gall and urine and finally blood tests as well as liver punctures.

Q. You said that the material was obtained in clinics from patients; now how was this material obtained, witness?

A. It came from jaundice patients, who had been admitted to the clinics in question. It was obtained by the clinicians there, according to the diagnostic procedure customary throughout the world, from the

patients. Then we used this material on animals, primarily mice and rats. The mice developed a very characteristic symptom, especially of the liver and with the material thus obtained we were able to isolate a virus strain or several virus strains, which could continuously be cultivated on mice. The animal material by Professor Buschler in Freiburg or that received through the pathology diagnosis, he was able to check our findings, he isolated a virulent virus there, about the characteristics of which, I will say only as briefly as possible. The main thing was that its filterable filter, which leaves no bacteria through and in the mouse it causes characteristic changes in the liver, kidneys, and lungs and was made visible microscopically for the first time by me.

Unfortunately because of the war conditions this work could not be published, but it is now printed. The virus can be built in mice and also in tissue cultures and which is important for our consideration, it is apparently limited on the one hand like the typhus germ in the feces and on the other hand like many lung diseases through the discharge of that as means of transmission. We have to consider the disease, also the origin of transmission. The English term would be "airborne". For the epidemiological significance that was a very important fact. That essentially covers the hepatitis work as performed in my institute.

Q. Now before I go on to the alleged experiments, Professor, a preliminary question; the Prosecution has submitted a number of documents maintaining that hepatitis is a very dangerous disease which brings about cases of death on human beings; can you tell us something about that Professor?

A. I am not a clinician myself. As far as I know from literature, however, and from reports of experience gained in this war, I can say that as far as mortality, the disease is not dangerous. I know of no definite death, however, epidemic jaundice has great epidemiological significance, since the conditions under which it is transmitted are

more or less unknown. We have seen in the troops, that in many units 50% to 60% of the men contracted hepatitis which, of course, greatly diminished the effectiveness of the troops. We have also seen that the disease is carried home and that after recovery the germ remained a considerable period of time in the body, so that when the disease is overcome, the individual is a carrier of the disease and can become dangerous. It was very important to determine the method of transmission of hepatitis. I have already said that certain conclusions could be drawn from our work, for example, that the virus is found in the intestines show that the possibility of transmission through feces and sputum existed. For this reason alone there was a great need to find not only the cause of the disease, but also to clarify the method of transmission.

Q. So far you have told us, Professor, that your work covered the causes of the disease and also the method of transmission. On this latter point, the prosecution has alleged that you and Dr. Dohme in the concentration camps Sachsenhausen and Natzweiler carried out experiments, first to discover the causes of jaundice and second to determine the method of transmission and thirdly to test a vaccine. The prosecution has alleged that experimental subjects in these two camps were infected with epidemic jaundice; what have you to say about that?

A. I can only say that no such experiments were performed by me or at my institution either in Natzweiler or Sachsenhausen.

Q. Witness, to prove their assertion, the Prosecution has submitted essentially only one document. This is an affidavit by Dr. Rudolf Brandt. It is in document book 8 on page 1 of the text. I should like to quote number five on page 2. It is document No. 371, Exhibit 186. I shall quote No. 5:

"Dr. Eugene Haagen, Oberstabsarzt and consultant in hygiene for the Luftwaffe, had also been doing research work at the Natzweiler Concentration Camp in an effort to discover an effective inoculation

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against epidemic jaundice. As I recall, Dr. Dohman collaborated with Hagen in 1944, at the Concentration Camp Natzweiler and experiments on involuntary human beings were conducted which resulted in deaths."

"Witness, will you please comment on this statement of Dr. Brandt?

A I have the document here with this statement and testimony of Dr. Brandt. I must say that from the beginning to the end this statement is untrue. Neither I nor Dr. Dohmen, nor both of us together, ever performed any human experiments with hepatitis epidemica; I never performed any such transmission experiments.

Q Witness, the Tribunal remembers that when Dr. Brandt was examined as a witness he withdrew his affidavit on this point. He said that he had no knowledge of his own on the subject, that he was merely expressing assumptions and conclusions.

A next question, Professor. Did you collaborate with Dr. Dohmen in the field of hepatitis epidemica?

A No; there was never any collaboration with Dr. Dohmen in this field.

Q But Dr. Dohmen was in Strasbourg once. What was the reason for this visit?

A Dr. Dohmen is an old student of mine. In 1934 he worked in the Reich Health Office and I acquainted him with the methods of virus research. In Hamburg he continued to work on virus diseases, and it is no doubt primarily on the basis of his own experience as a military doctor during the war that he became interested in the cause of hepatitis epidemica. He worked at the Robert Koch Institute in this field. I need not go into that work any further.

In the years 1942-1943 he delivered lectures on various occasions, I believe at the Vienna Medical Society and also at the meetings of the consulting physicians of the Wehrmacht, which have been mentioned here. I noticed various differences, and I was interested in clarifying these differences. On the occasion of a preliminary discussion in Hohenlychen at the meeting of the consulting physicians in May of 1944, I repeatedly expressed my opinion to other colleagues, my regret that I had not been able to consult with Dr. Dohmen on this important subject, that we had been working in what I might call splendid isolation. It seemed to me that he had made considerable advances in the field of investigating the causes, but experience and precaution made it

seen advisable to me to compare our findings. Thereupon I issued an invitation to Dr. Dohmen to come to Strasbourg so that in the laboratory there we could discuss and clarify the debatable points.

Q Professor, will you please look at document NO-299, Exhibit 190? It is in Document Book VIII, on page 8. It is a letter from you dated 12 June 1944 to Generalarzt Professor Dr. Schreiber, Academy of Military Medicine, Berlin. You write that through this letter you are renewing your invitation to Stabsarzt Dr. Dohmen. I assume that this is the invitation you were just mentioning; is that right?

A I have this letter here. Professor Schreiber was the decisive personality in epidemic research at that time. I sent the invitation to Dr. Dohmen in writing through him. I was repeating an invitation which I had already given orally.

Q Now, before I go on to Dr. Dohmen's visit, I have two more questions on this Document NO-299. You write in the second paragraph that Professor Schreiber should give you several thousand mice, or obtain them for you. Can you please tell us why you needed so many mice?

A I have already said before, when I was speaking of Professor Schroeder's and Dr. Becker-Freyseng's visit, that our animal experiment work required large numbers of animals. Our own breeding material was not adequate; I had to look around to see where I could get animals, in this case for hepatitis, in order to transfer the material from the patients and to breed the isolated virus by animal passage, to keep the virus strains alive.

Q Now another point on this document. In the last paragraph you enquire whether hepatitis research will be carried on in the future out of funds of the Reich Research Council or whether you are to ask for further funds from the Medical Chief of the Luftwaffe. Did you later obtain money from the Chief of the Medical Service of the Luftwaffe for hepatitis research?

A No, I never obtained funds from the Chief of the Medical Service of the Luftwaffe. The research work was carried out on the basis of an

assignment and with funds supplied by the Reich Research Council.

Q Now, to go back to Dr. Dohmen's visit, did Dr. Dohmen actually come to visit you in Strasbourg?

A Yes, Dr. Dohmen came about the middle of July, 1944, for a few days. We discussed our animal experiment work and other laboratory work.

Q On this occasion did you visit the concentration camp Natzweiler together with Dr. Dohmen, witness?

A No. I am sure that Dr. Dohmen was never in Natzweiler. I was never there with him, and if he had been there alone I am sure I would have heard of it.

Q Professor, on this occasion, or perhaps later, did Dr. Dohmen say that he had carried out experiments in the field of epidemic jaundice in the concentration camp Sachsenhausen?

A I can not remember Dr. Dohmen speaking to me of the planning or execution of such a human experiment in Sachsenhausen.

Q Then I should like to show you a prosecution document, again from Document Book VIII, on page 3. It is Document NO-010, Prosecution Exhibit 187. It is a letter from the Reichsarzt SS and Police, signed by Dr. Grawitz, dated 1 July 1942. I do not intend to read this letter, but it says that in order to promote virus research it is necessary to transfer the virus to human beings and that Dohmen is to carry out these things in the concentration camp Sachsenhausen. Do you know anything about this letter or this incident?

A I have this letter before me. I do not know this document and I do not know anything about the whole incident.

Q You just said, witness, that hepatitis epidemica is not a dangerous disease, but Grawitz, in this document, says that eight persons condemned to death are to be used as experimental subjects because it is to be expected that there will be cases of death. You have already expressed your opinion on this point, but I want you to comment on this assertion of Dr. Grawitz.

A This assertion of Dr. Grawitz¹ merely proves quite clearly that there could not have been any expert involved in the matter, and not Dr. Dohmen either, because any doctor who ever worked with hepatitis knows that the contagion is not so great that, on the basis of experiments on eight persons, one can obtain a valuable result. And as I said before, I never heard of any deaths from hepatitis, so that as far as mortality is concerned I must call it a non-dangerous disease.

Q You have already said, Professor, that when Dohmen visited you in Strasbourg you did not visit the concentration camp Natzweiler and certainly did not perform any human experiments. I understood you correctly, did I not?

A Yes, that is true. I shall repeat that there was no visit together with Dohmen to Natzweiler, and that no human experiments were performed there.

Q.- I must correct myself on Document No. 010. I said the letter was dated the first of July 1942, but it is really the first of June, 1943. Now to go back to the human experiments. The Tribunal will remember the witness Edith Schmidt testified for the Prosecution here. She testified on the 9th of January 1947, Page 1378 of the English record. She said that in the field of hepatitis epidemica only laboratory work was carried out, but no human experiments. According to this testimony no human experiments were performed, at least not by you. And you know nothing about other people performing such experiments. But the Prosecution said that such experiments were planned, and submitted a number of documents. First of all, will you please tell us your own knowledge of the planning of human experiments in this connection.

A.- First I should like to repeat that I personally know nothing of any human experiments with hepatitis epidemica in Germany. I know, however, that experimental transmission of hepatitis to human beings was performed in England as well as in America. It is true that after the animal experiments were completed it has to be tested on human beings, how the transfer of hepatitis epidemica really occurs. As far as I remember, this work was first discussed in the hepatitis meeting at Breslau in 1944. This meeting was in June, 1944, under Generalarzt Prof. Dr. Schreiber. I have already said that he was in charge of epidemic research in the Reich Research Council. In this respect I should like to say he was the leading man in this field. At this meeting the hepatitis working in practice consisted of the internist Prof. Kalk, then Pathologist, Prof. Buechler in Freiburg, the surgeon, Prof. Zugschwert in Strasbourg, and myself. This collaboration of four medical officers of the Luftwaffe was purely a coincidence. The 5th colleague in what I have heard was a conspiracy of the Luftwaffe was Prof. Stein in Strasbourg, who was an Oberstarzt in the army and a consulting internist in the army. Following this hepatitis meeting, a correspondence went on between Gutzeit, who was the consulting internist of the Chief of

the Medical Service of the Army at the time and who, as a clinician, was in a leading position in hepatitis research, between Gutzeit and myself.

Q.- Witness, will you please look at Document 8 Page 11, Prosecution Document NO-124, Exhibit 193. It is a letter with the head "consulting internist to the Chief of the Army Medical Service, 24 June, 1944." It is signed by Oberstarzt Gutzeit. The letter is addressed to you. I assume that you are thinking of this letter when you think of correspondence between Gutzeit and yourself. Is that so?

A.- This letter of the 24th of June 1944 from the consulting internist of the Army Medical Inspector I have before me. This is the letter I mean. Gutzeit refers to his statement at the hepatitis meeting in Breslau and he had said that the final proof of the nature of the germ, the various types of virus which had been found, was not final, and that for this purpose one had first to transfer the virus, since only in this way could the etiology and the method of transmission be clarified. He also said that he would make the preparations for such human experiments. At the time he did not know any details specifically about the nature of the experimental subject.

Q.- Well, Professor when you received this letter you probably wondered what experimental subjects Mr. Gutzeit was thinking of. Can you tell us what kind of experimental subjects you think Mr. Gutzeit had in mind?

A.- I know that Prof. Gutzeit had an opportunity to obtain the soldiers or students or members of his clinic for these experiments. I do not know whether Prof. Gutzeit actually carried out experiments of this nature. In any case, Dr. Dohman, when he visited me in Strasbourg in July 1944 told me nothing about it.

Q.- Now, witness, about your own planning after --

THE PRESIDENT: It seems to me it would be profitable if you would confine the examination of this witness more nearly to the charges

against these defendants, or some of them. We have heard a great deal about other people. I don't know what the witness is about to testify to, but so far there has been comparatively little concerning these defendants. Can't you bring out such matters that we desire directly concerning the issues before the Tribunal?

DR. TIPP: Mr. President, that is because the Prosecution has not explained on what the charges against Schroeder and Becker-Freysong are based. I do not know which documents are intended to be used against Schroeder and Becker-Freysong. If Mr. Hardy will explain the individual documents that pertain to the charge against my client, I will be glad to limit my examination to that extent. It is not my fault. It is because the Prosecution has not clarified this point. I am now coming to the Kalk-Hagen letters which were submitted. It was not said what they were intended to prove, and, which is more important, against whom they were intended to be proof. Perhaps Mr. Hardy can help me on that point. Otherwise, I might quit some document which could possibly affect one of my clients.

THE PRESIDENT: I am of the opinion that there is some truth in what counsel says. Can the Prosecutor clarify any of these matters?

MR. HARDY: I have no comment in this respect, Your Honor. I think the record and the document speak for themselves. I might request, Your Honor, that I might be permitted to see the notes that Dr. Hagen is testifying from?

THE PRESIDENT: For what purpose? What is your reason for that request, counsel?

MR. HARDY: Because I have a feeling that the notes he is testifying from could contain questions and answers exactly the same as the notes I see before me on this podium, and I would like to compare them, merely for my own satisfaction, to compare them to see if these answers were all made out before hand.

DR. TIPP: It is a matter of course, Mr. President that such a com-

pllicated scientific subject I could not present without very careful preparation. Defense witnesses as well as Prosecution witnesses have made notes beforehand. Actually how it is done, I think, is the business of the defense counsel. I don't think that Mr. Hardy has the right to see the notes. He can merely object to the witness reading, and he has not done so.

THE PRESIDENT: If Counsel for the Prosecution is of the opinion that these notes which the witness is using from the stand were prepared by somebody else or counsel, he may cross examine him on that matter.

MR. HARDY: I wish to call to the attention of the Tribunal that these notes were obviously prepared by defense counsel. They contain the questions and proposed answers to each question and they are numbered up into the hundreds. If the Tribunal desires to look at them, they can see for themselves precisely just what I am referring to. I have no desire to cross examine on them, but they are more than notes which we use in American law to refresh the recollection of a witness. They are precise and contain a sufficient amount in them so that the answer on the notes could be the answer to the question. And if the Tribunal looks them over closely we could dispense with the entire testimony of Haagen and introduce these notes, if Haagen will maintain that each answer therein will be the answer he will give from the stand. It will save two days of time. The notes will go in as a document or an affidavit.

THE PRESIDENT: I was wondering why this testimony could not be given in the form of an affidavit. The Tribunal will now be in recess for a few minutes.

(A recess was taken)

THE MARSHAL: Persons in the courtroom will please take their seats. The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

DR. SAMLIK (Counsel for Defendant Hoven): Mr. President, I request the Tribunal to rule that the Defendant Hoven may remain absent from this afternoon's session, in order to prepare his defense.

THE PRESIDENT: Upon request of counsel for the defendant Hoven, the defendant Hoven may be excused from attendance before the Tribunal this afternoon, in order that he may consult with his counsel and prepare his defense.

DR. HOFFMANN (Counsel for Defendant Pokorny): Mr. President, I ask that the defendant Pokorny be excused from tomorrow's session, for the same reason.

THE PRESIDENT: On request of counsel for the defendant Pokorny, the defendant Pokorny may be excused from attendance before the Tribunal during tomorrow's session, in order that defendant may consult with his counsel in preparation for his defense.

Counsel may proceed.

MR. HARDY: Your Honor, I do not believe that the Tribunal has ruled on my objection to the use of these notes on the part of the witness, Haagen.

DR. TIPP: Mr. President, I emphatically object to this application by the prosecutor. You will recall that the witnesses for the prosecution had a large number of notes before them, as, for instance Professor Ivy, and had to have them before them. The defense made no objections to the way in which the prosecution handled its witnesses and I think there is no rule that the prosecution should allow the witness to have notes before him.

THE PRESIDENT: I will address a question to the witness.

BY THE PRESIDENT:

Q. Witness, did you prepare the answers to the questions

which you were consulting in answering the questions asked you, or did someone else prepare those notes?

A. The answers could have been prepared by no one else because I, alone, know about these things. Primarily these are scientific and medical problems of a specialized nature.....

Q. Witness, just answer the question: Did you prepare those answers or did someone else prepare them?

A. They were all prepared by myself.

THE PRESIDENT: Objection is overruled. Counsel may proceed.

MR. HARDY: Your Honor, then it is my understanding that the Prosecution does not have the right to see the notes from which the defendant is testifying?

THE PRESIDENT: Not at this time. On cross-examination counsel may propound questions which may require the notes to be shown to the Prosecution.

MR. HARDY: Would it be possible to give the interpreters a copy of the questions and answers? The interpretation might be considerably lessened and made easier if they used such answers and questions.

DR. TIPP: Mr. President, that would mean that I would be obliged to stick to the questions and answers as they are down here.

THE PRESIDENT: I think it is necessary. We will proceed as we have been doing heretofore.

BY DR. TIPP:

Q. Witness, after this interruption we shall continue in our discussion of the last mentioned document. No, I will turn to a new document. Please take a look at NO-125, Exhibit 194 of the Prosecution, which is a letter from you to Prof. Dr. Gutzeit. In the first paragraph, regarding the fact that Herr Dohmen will come, I quote: "We shall then review all common Hepatitis questions and perhaps also set up the experiments together." I assume that the Prosecution immediate-

ly construed the word "experiments" as a criminal human being experiment and I want to know what experiments you were thinking of here.

A. This letter of 26 June 1944 I have before me in which, in the first paragraph, experiments are mentioned. What was meant here was animal experiments and microscopic examinations, but under no circumstances experiments on human beings. In connection with Dr. Dohmen's visit to me there was no thought of any such experiments. That can be seen from the next sentence, where I write: "I cannot at present definitely answer your inquiry about human experiments."

Q. Witness, you write further in the same document, that you have already arranged with Herr Kalk, that you should undertake that type of experiment with your material. Now, when you use this word "material", what do you mean? Did you mean human material--experimental subjects, in other words?

A. Our materials were the virus for Hepatitis which we isolated. This phraseology has nothing to do with human experimental material.

Q. Witness, can you say from this document how you would imagine that these transmission experiments would take place, of which there is mention here?

A. After we had isolated the virus and had some notion of how the transmission was to take place, it was, of course, necessary to close the circle and to undertake to clarify the transmission to human beings. On various occasions Professor Kald and I had discussed the progress of the work and since both of us, he as a clinician and I as an epidemiologist, were interested in clarifying this important question, we also discussed it. However, as I said, this was only a discussion, without our arriving at any specific plans. We were agreed that we should carry out such experiments but that only volunteers would come into question as experimental subjects and they would be persons of some intelligence, so that they could observe and get down in

writing their own subjective reactions. We were thinking, primarily, of students from the Wehrmacht, namely from the Wehrmacht Student companies. Moreover, clinical examination and observation was absolutely necessary and this again could only be carried out in a clinic, or a hospital. Thus, as I have said, we were thinking of students as the persons who most appropriately met all these necessary pre-requisites.

Q. Now, witness, the next document in the same document book, page 14, Exhibit 195 of the Prosecution, Document NO-126. It is a letter from you to Kalk, of the 27th of June 1944. It is addressed to Oberstarzt Prof. Dr. Kalk with the Chief of the Luftwaffe Medical Services, Saalow. You said this morning that your collaboration with Kalk, Buechler and Zugschwert, had no connection with the belonging to the Luftwaffe; but from the address of this letter the Prosecution will indubitably conclude, since it reads "With the Chief of the Luftwaffe Medical Services" that you turned to Mr. Kalk because he was a member of this office. Can you please explain this?

A. It is a simple matter to explain. This letter has nothing to do with Kalk's official position as consulting specialist for internal diseases. Kalk had been bombed out in Berlin, and since I was in Strassburg I did not know where he lived but I did know that he had an office with the Chief of the Luftwaffe Medical Services and that by addressing the letter to him there I would stand the best chance of contacting him. That is why I wrote to that address.

Q. Now, witness, in this letter you write: "I must proceed as soon as possible with the experiments on human beings. These experiments, of course, should be carried out in Strassburg or in its vicinity." Here the Prosecution exceptionally explained this sentence, on 9 June 1946, on page 786 of the transcript, and said that this reference to the vicinity of Strassburg refers of course to the concentration camp Natzweiler. Now let me ask you--did you actually intend to carry out these experiments in the Natzweiler concentration camp?

A. Such work as the prosecution understands under human experiments I never carried out in a concentration camp and may I go into this at greater length when we are discussing typhus. As I have already said, we were thinking primarily of volunteers, and for the location where this clinical observation was to be carried out, we thought of the clinics or hospitals in Strassburg or those in Freiburg or in Heidelberg, all of which were immediately accessible. This also had the advantage that in all those 3 places there were student companies of the Wehrmacht.

Q. In the next sentence you say: "Could you, in your official position, take the necessary steps to obtain the required experimental subjects?" Now why did you turn specifically to Professor Kalk in this?

A. Kalk, as a consulting specialist for internal diseases for the Medical Services of the Luftwaffe, was in touch with the chief

physicians of all Luftwaffe and other military hospitals so that the question of accommodating the volunteer experimental subjects could be most easily solved by him. It was my view that the use of students from student companies would, as a basic principle, first have to be approved by the Chief of the Medical Service and since Kalk was living near him, it is obvious that I requested him to obtain this approval. Let me also point out that the Chief of the Medical Service of the Luftwaffe had no fundamental misgivings about using volunteer students for our work, as can be seen from a subsequent decree, which permits protective vaccination with a new vaccine against influenza and which specifies that volunteer students could be used for such experiments.

Q. Professor, you know the general conditions which according to the prevailing principles of medical ethics regarding human experiments should precede experiments on human beings. Were these prerequisites met in your Hepatitis experiments, in your opinion, namely, were experiments on animals carried out before they were carried out on human beings?

A. Counsel, I suppose that I may regard this as a rather general question, since we did not carry out such preliminary experiments in the matter of Hepatitis; I spoke about these prerequisites already in another court; they would have been met here too; first the conclusion of animal experiments until all possibilities were exhausted, then laboratory experiments, so far as these could be carried out, and finally, of course, also experiments on ourselves would have been carried out. In all such work, not only in testing vaccines but also in examining means of contagion, etc., we followed this basic principle; I may point out that I infected myself with various types of viruses, for example, with a virus which produces an inflammation of the brain, and I feel seriously ill as a consequence. Also, I tested an influenza virus on myself and received an inflammation of the lung. Then there were the vaccines we tested on ourselves-

influenza and new smallpox vaccines and also the typhus vaccines. I am mentioning all this briefly so that you can see what a matter of course it was with us that experiments on ourselves should be carried out. I am of course not trying to set up some general postulate that every physician or research scientist should follow the same policy.

Q. Then professor, this was a matter of planning and considerations. May I ask whether this plan was ever put into effect as far as you were concerned?

A. I have already said several times that this was simply a matter of planning and discussion or considerations, and that such contagion experiments were not carried out by us. I can only answer this question in the negative. All research in this field was interrupted by the effects of the war.

Q. In the field of Hepatitis did you receive a research assignment from the Medical Inspectorate, witness?

A. I did not receive a research assignment from the Medical Inspectorate but let me point out Document 137, Exhibit No. 189, No. 5, where a research assignment from the Reich Research Council is mentioned.

Q You said already that your collaboration with Kalk, Buechner and Zuckschwert was independent of your membership in the Luftwaffe. Let me ask you in addition whether this joint work was ordered in any way, directed or supervised by the Medical Inspectorate of the Luftwaffe?

A No, there was no direction or supervision by the chief of the Medical Inspectorate. This was a purely research assignment that was entirely independent of our other official or military duties.

Q Did you ever discuss with Professor Schroeder these plans or the prerequisites that you have just described?

A I really can't recall details any more. It is possible that we had such discussions but, as I said, after three or four years I cannot recall the details.

Q Did you talk these matters over with Dr. Becker-Freyseng?

A At most I discussed acquiring of animals for experiments which greatly interested Becker-Freyseng because of his work with the chief of the Medical Inspectorate.

Q I understood you to say, witness, that in July 1944 you once spoke with Becker-Freyseng, and I assume that the possibility you have just mentioned also refers to that conversation.

A Yes, that is correct; Becker-Freyseng and I had only one real conversation; namely, on the occasion of his visit to Strassbourg in July 1944.

Q I turn now to the next point; namely, the yellow fever experiments. This charge in the indictment has been withdrawn already in regard to Becker-Freyseng by the prosecution, but Schroeder is accused of having taken a part in the yellow-fever experiments that are said to have taken place in the Buchenwald at Natzweiler concentration camps. This charge is based by the prosecution on the fact mentioned in the indictment that Schroeder must have known of these experiments because of his position in the Medical Inspectorate of the Luftwaffe. Without going into the experiments, may I ask you to describe your

papers and work in the field of yellow fever very briefly.

A In the field of yellow fever I worked in two different periods; the first time in 1931 to 1933 in the yellow fever Laboratory in the International Health Department of the Rockefeller Institute in New York whither I had been called as a special associate to breed yellow fever virus; as I have said for the first time I succeeded in breeding this culture and on the basis of this a vaccine against yellow fever was developed which is used everywhere in the world now and which undoubtedly has already saved the lives of innumerable persons.

During the war the Robert-Koch Institute of which I was then a member received from the navy an assignment to manufacture yellow fever vaccine -- that must have been in the year 1941 -- and the president of the institute passed this assignment on to my laboratory; namely, the assignment to produce vaccine. The vaccine was manufactured according to the standard method. I need not go into that.

Q Professor, where did you get the virus that was used to manufacture this vaccine?

A I had taken the material with me from the Rockefeller Institute in New York when I left and had kept the virus alive throughout these years because scientific work in this field was enormously valuable. This was an already mutated and attenuated virus which was no longer pathogenic for human beings but was still very pathogenic for animals and for this reason it was characterised by us as highly virulent. I am saying this as an aside to clarify the question of pathogenic and virulent again. The navy, before introducing this vaccine, wished to have its tolerability tested as far as human beings were concerned and there were negotiations on the subject with the president of the Robert-Koch Institute and for the navy, with Flottenarzt Grawitz; and the latter negotiated with the National Health Office and a sanatorium was made available by the Health Office where the vaccinations took place.

Q Witness, what was the name of the sanatorium?

A In Berlin, named Wittenau.

Q I may remind the Tribunal that the witness Edith Schmidt mentioned these vaccinations in Wittenau when she testified here. She said that experiments on human beings were carried out with the yellow fever vaccine at the insane asylum Wittenau.

A We used about ten persons. We received the serums from the asylum to test this immunizing vaccine and first of all we used the so-called mouse test which first makes sure whether the immunization is complete so that experiments of that type on human beings need not then be carried out. This is a process used throughout the world.

MR. HARDY: Your Honor, it doesn't seem to me that all this testimony on the background of virus, yellow jaundice and yellow fever is necessary. The question here is whether or not experiments were conducted, as alleged in the indictment, for yellow fever research; were there ever any human being experiments conducted; if so, were they conducted on concentration camp inmates without their consent; were any plans made for such conduct of experiments; were the plans carried out; if so, did the research orders issue from the Medical Inspectorate or from the Reich Air Ministry; or where did they issue from? It seems to me five or six questions along that line would cover the entire field. This Tribunal has heard considerable evidence concerning the effect of various fevers and so forth. The witness is here to testify as to whether or not these experiments were conducted and whether or not they originated from the office of Schroeder or Becker-Froysong. I don't see the necessity for covering all these other incidental or immaterial matters.

THE PRESIDENT: The witness testified that the experiments were carried out in Berlin. We will await the next question by defense counsel.

DR. TIPP: If the prosecution has its witnesses testify that human being experiments were carried out without making clear who was responsible for them, I then think Mr. Hardy should not be surprised if

he didn't and who gave him the orders. I don't see the necessity for going into all those particular matters that are so far afield. We have had expert witnesses testify on each field. We have got Gutzeit and Schmidt and various witnesses for Rose and the defendant Rose himself. Now, the point is whether or not this witness can testify as to the fact that Schroeder gave him orders to conduct experiments or whether Schroeder gave him the research assignment or whether Becker-Freysong gave him the research assignment and were the experiments conducted on human beings in a concentration camp, as alleged in the indictment, upon people without their consent. I don't see the necessity for continually asking the prosecution to give a full closing statement at this time. It is obvious if he has documents to discuss that is perfectly material and the significance of various documents I can see that -- but I can't see the materiality of this other evidence.

DR. TIPP: If I understand what Mr. Hardy said, he said that the experiments in Wittenau are not being used as a charge against Dr. Schroeder, but if the experiments in concentration camps are part of the charge against Mr. Schroeder then I can conclude that these experiments in the Wittenau insane asylum are not included in the charges. Perhaps I misunderstood Mr. Hardy, but in any case that seems to be the meaning of his statement. Now, if I have understood him correctly, and Mr. Hardy can answer that with yes or no, then I can drop all of the questions of the experiments in Wittenau. I don't know why he doesn't say so.

THE PRESIDENT: Do I understand that counsel for the prosecution has stated the alleged experiments on inmates of those insane asylums are not included in the charge against any of the defendants.

MR. HARDY: Your Honor, I have participated in drafting the indictment and I can't recall any language to that effect.

JUDGE SEBRING: Mr. Hardy, do you now make the statement they are not included within it?

MR. HARDY: Yes, Your Honor.

DR. TIPP: That is what I wanted to hear.

BY DR. TIPP:

Q. All right, then we may drop the question in regard to Wittenau, and let me ask you further, doctor, you said that the Robert Koch Institute received the assignment from the Navy to produce yellow fever vaccine. However, there are a number of documents here showing that you also received a research assignment from the Medical Inspectorate, a research assignment in the field of yellow fever. This is in Document Book No. 12, and please turn to page 80 in the English and 79 in the German text. Here is Document NO-137, Prosecution Exhibit 189. This is a letter to the Rector of the University of Strassbourg of the 7th of October, 1943. This document contains the research assignments that you received in detail. Witness, this contains your research assignments and it includes one from the Medical Inspectorate of the Luftwaffe. Do you have this document before you?

A. Yes, I do.

Q. Will you please tell us what the subject of this research assignment was?

A. This research assignment was an assignment to produce yellow fever vaccine. This was an assignment made by the Medical Inspectorate as can be seen by the letters where they refer to the Reich Air Ministry, Commander in Chief of the Luftwaffe, and Medical Inspectorate.

Q. Now you said that the assignment was given to the Robert Koch Hygienic Institute and Hygienic Institute of the University of Strassbourg, and to you as a member of these two institutes, is that not so?

A. Yes, that is correct; that goes back to Dr. Rose's suggestion. The first assignment did not affect me directly but only the Robert Koch Institute, but since it concerned the manufacture of vaccine it was referred to my laboratory. Only after I moved to Strassbourg did I receive an independent assignment of my own, or at least my institute did, and this was extended once or twice up to the year 1943, when Africa was lost, and at this time the Medical Inspectorate requested me not to produce any more vaccine but to keep all of the apparatus available that was necessary for such production, so that production could be started again later at any time.

Q. Witness, did you ever use human beings to test your yellow fever vaccines that you produced, within the meaning of the indictment, or, and this is the second question, did you ever receive any orders from the Medical Inspectorate of the Luftwaffe to carry out such experiments?

A. No, but I should like to say the following: The experiments of the sort that the prosecution charges, namely, that first a vaccination is carried out and then the person is injected with pathogenic germs to test the efficacy of the vaccination, such experiments could not have been carried on by us at all because we had no virus that was pathogenic for human beings nor did we need to, because, as I have already said, we had a very reliable procedure for testing the immunizing effects of a vaccine, namely, in this aforementioned mouse test.

Q. The Tribunal will remember that the statement Professor Haagen just made is substantiated by Professor Loering on the 17th of April, 1947, before this Tribunal on page 6047 of the English transcript. Now, in conclusion I want to put to you a few more documents on these yellow fever experiments that the prosecution put in evidence and from which they draw the conclusion that you did carry out animal experiments, and that the Medical Inspectorate of the Luftwaffe was in some way involved in this. Please, witness, in this connection take a look at Document Book 12, page 109, Document 304, Exhibit 315. This is a letter from you of the 22nd of October, 1942, to the Medical Inspectorate of the Luftwaffe in Berlin. The subject reads: Research orders, file note 55, and so forth. We have tried to find in this letter some indication of human experimentation but we have not succeeded. Perhaps you, as an expert in this matter, can be of assistance to us.

A. This is my letter of 22 October.

Q. Yes, 22 October.

A. I regret being obliged to say that I cannot understand how any such construction could be put on this letter. Any specialist can see from this application that this is an application for laboratory equipment, or for the equipment necessary for keeping experimental animals. The inclosures to the letter are very clearly directions for use for the yellow fever vaccine when it is being used for the troops. Such directions are included in vaccines in all of the countries of the world. That these are instructions for doctors with the troops can be seen from the last sentence in the document where it says, "The vaccination is not followed by skin reaction, general symptoms are usually absent, occasionally mild headaches or physical discomfort occur. Any more serious reactions, especially manifestations of jaundice or albumine, must be reported immediately to the Medical Inspectorate of the Luftwaffe through official channels, mentioning Operation Number."

Now only a medical officer could use official channels so it is obviously absurd to suppose that this could have referred to human experi-

ments. It was simply instructions for use. I think everyone here in this room has at one time or another in his life been vaccinated and as everyone knows the reaction is very slight, whether it is yellow fever or smallpox, and very little attention has been paid to this matter, although millions of such vaccinations have been carried out through the whole world.

Q. Now, the next document, Professor, page 112, in the document book, Document NO-297, Exhibit 316. It is a letter with the letterhead of the Minister of Aviation and the High Command of the Air Force, Berlin, 14 July 1943. It is addressed to you; the subject is "Research Order for Yellow Fever Vaccine". You have already said that the manufacture of yellow fever vaccine was stopped after the loss of Africa and I wish to ask you whether that stopping had anything to do with this document here?

A. Yes, this letter of the 14th of July asks the Medical Inspectorate of the Luftwaffe to stop further production of yellow fever vaccine, etc., but it is requested to keep the existing equipment as I have already said. In other words, this letter concerns itself exclusively with the production or the interruption of the production of yellow fever vaccine. This letter certainly has nothing to do with human experimentation.

Q. Now, witness, the next document about yellow fever experiments is on page 113. It is Document NO-139, Exhibit 317. This is a letter from the High Command of the Navy on the 7th of March, 1944, to you. Here mention is made of a Japanese Oberstabsarzt who should get yellow fever samples from Strassbourg. Now, this word, the German word "Probe", translated "samples", has an ominous ring in this trial. Will you tell us just what kind of yellow fever virus was in question here and whether it has anything to do with the planning of experiments on human beings.

A I have before me the letter of 7 March 1944, is that the one you are talking about?

Q Yes.

A The Japanese army was probably interested in the production of yellow fever vaccine because the war in the Far East was being carried on in an area where yellow fever was present. We know that the yellow fever mosquitoes live there but didn't know much about the extent of the sickness. However, during the war, the widespread transportation spread the disease. At any rate, I assume that the Japanese army wanted to produce this yellow fever vaccine for that reason and a Japanese Oberstabsarzt came to Germany to get such a yellow fever vaccine virus strain. This event also seems to have been construed as something criminal. The word virus samples that was mentioned here and which has probably led to this misunderstanding. The German words "Virus Proben" are not to be translated as yellow fever virus experiments or tests, but as yellow fever virus samples. In other words, the German words "Virus Proben" mean small amounts of the vaccine virus such as institutes send to each other throughout the whole world or which are sent to authorities for them to work on them and do whatever work they want to do. This then is the turning-over of a virus strain and has absolutely nothing to do with experiments of any sort.

Q Now, witness, the concluding question in this matter. With whom did you negotiate in the Medical Inspectorate regarding the production of this vaccine?

A Negotiations about this production assignment were carried on, first of all, with the hygiene referents. That was Stabsarzt Atmer, then the department chief, Dr. Martius, and then, of course also with the consulting hygienist, Professor Rose, who, per force, interested himself in these problems, particularly.

Q Did you ever talk about this production with Professor Schroeder?

A No, in the entire period during which the vaccine was being produced

I didn't even see or speak with Schroeder at all.

Q Did you talk with Becker-Freyseng about this?

A No, neither in person nor in writing. At that time, as I have already said, I didn't know Becker-Freyseng at all.

Q I turn now to the next count, namely, the experiments with T.A.B. Chol.-vaccines. We don't know when these were alleged to have been carried out either and the only document that we have in this connection.....

MR. HARDY (Interrupting): Pardon me, Your Honor, I didn't get the translation of what the next subject will be.

BY DR. TIPP:

Q I am turning to the experiments with T.A.B. Chol.- vaccines. I have already said that I don't know of such experiments nor do I know how the Prosecution comes to know of such experiments. The only document submitted in this matter is one that again bears your name. It is in Document Book 12, on page 120, Document NO-130, Exhibit 319. The letterhead is "Oberstabsarzt Prof. Dr. E. Haagen, Consulting Physician to the Air Fleet Physician Reich - Strasbourg, 4 August 1944. Subject: Report on the Successes with T.A.B. Chol. - Vaccines."

Witness, please tell us whether this is a report on a large scale human experiment with this T.A.B. Chol.- Vaccines."

A This is my letter of 4 August 1944. As can be seen from the letterhead, this is a report that I put out in my capacity as Consulting Hygienist for the Air Force Physician, Reich, regarding troop doctors' experiences with a vaccine that, at that time, had recently been introduced into the Wehrmacht, namely, a combined vaccine immunizing against typhoid, para-typhoid and cholera, which was manufactured by various German firms. This report was typical of the work of the consulting hygienist, not only for the Air Force physicians, but for all other doctors in the army. All troop doctors' experience reports in the field of hygiene reached me. I was to evaluate what I read there and summarize it and submit it to the

Air Force Physician and he, in turn, passed it on to the Medical Inspectorate if he felt that something of scientific importance was contained in one of these reports. I do not believe that any other construction can be put on this report - namely, that it is an experience report - if one reads through it carefully and objectively. I have never seen a report of an American army doctor in the field of hygiene, but I can't imagine that it differs in any essential particulars from this report. Of human experiments or of criminal human experiments there is certainly no indication in this report. This is simply a compilation of the experiences that troop doctors had.

Q Now, Professor, we are coming to the last and perhaps the most decisive count of the indictment - namely, the typhus experiments, as the Prosecution calls them. Professor Schroeder and Professor Becker-Freyseng are charged with responsibility for such typhus experiments. There are two groups of them, according to the Prosecution. On the one hand, those carried on at Buchenwald concentration camp by Dr. Ding-Schuler and to a lesser extent by the defendant Dr. Hoven. The second group are the alleged typhus experiments that you carried out in the Natzweiler concentration camp. Before we turn to the individual experiments, Professor, please tell the Tribunal what the hazards of typhus were during the war, especially in the years 1943, 1944 and 1945 when this hazard became acute? Describe it only to the extent necessary in order to make your work understandable.

A I shall try to be brief, but in order to understand this whole problem one must be given some general information. Typhus is a very serious infectious disease which is included in international medical circles among the diseases which are of general danger and is consequently subject to international control. In cases of such hazardous and dangerous diseases, every state felt the moral obligation to do everything to prevent the outbreak of an epidemic because it is very difficult, once the epidemic has broken out, to combat it and eliminate it. This point of view was embraced, of course, not only by the govern-

ment officials, but also by the responsible and interested scientists and physicians because we all, of course, know how prodigious the danger of typhus is, not only for waging the war but also for the civilian population of the entire world. Typhus is not only a war epidemic, but once it has taken root in the country it is also a peacetime epidemic which it is enormously difficult to combat.

THE PRESIDENT: Counsel, the Tribunal is quite aware that typhus is a very dangerous disease that is a great menace to humans and that it was a menace to Germany during the last war, great danger. I don't think it is necessary to elaborate that again. We have heard it from several. It's not denied.

BY DR. TIPP:

Q Witness, you heard the Tribunal's wish. In the opinion of the Tribunal, the typhus danger for Germany has already been sufficiently proved. Please go on to the subject itself now. Perhaps you could speak of the usual preventive measures that are used against typhus, particularly as concerns vaccines.

A To prevent typhus there are, in general, two procedures. One is what I might call the mechanical procedure, and the other the biological procedure. In the mechanical procedure we are concerned with combatting the lice - I shall not go into that - but in the biological procedure we are interested in a protective vaccine. There are various vaccines available, and now to get down to the drux of the matter, I must say that the typhus vaccines that are made from dead typhus virus are not absolute protection against the disease. They may lead to a milder form of the disease, but the infection itself is not prevented. Dead typhus vaccine, in other words, has no absolute anti-infectious effect, which, however, is the main point of any vaccine.

We developed a living vaccine, not on the basis of our own experiences and research, but we made use of experiences of others. I should like to mention primarily the work of the French Typhus research, Blanc, Baltasar, and assistants, Lagrer, and Locelle. When vaccinating a vaccine must be used that gives anti-infectious protection, and in general in the case of virus diseases successful vaccination is also achieved only with living virus. Let me mention the examples of small-pox, influenza and yellow fever. In all these cases these are vaccines made from a living virus, but it is true that this virus has been mutated, that it is no longer pathogenic for human beings. It's pathogenic characteristics have been suppressed and have disappeared, but the virus retains its anti-infectious efficacy. This change is accomplished in two ways, either by passing the virus through an animal, -- this usually effects changes in the virus attenuating it, and sometimes effects mutation in the virus attenuating it, and sometimes effects mutation in the virus. I don't have to go into that, that would take up too much time.

Q. If I understand you correctly, witness, you roll as a scientist was to develop a vaccine from living virus, in other words from a non-pathogenic virus, but nevertheless had the anti-genic effect, namely the effect of protecting the vaccinated person against getting the disease later by infection, is that so?

A. Yes, that is correct.

Q. Now, witness, nobody is reproaching you for having produced vaccines, but it is said you tested the effectiveness of your vaccines in a concentration camp. The prosecution called these virulent, and you say that they were non-pathogenic. At any rate that is the way I understood the reproach of the Prosecution, but first before we go into this, witness, will you please tell the court how did it ever happen that you in this matter came into contact with the concentration camp Natzweiler?

A. The development of typhus throughout the war was that typhus was not a purely war epidemic, but because of the many transports, military, civilian and prisoner of war, and others typhus had been brought into Germany, too, especially in the overcrowded camps, and lack of sanitary installations, there was considerable danger from typhus, particularly where people assembled who came from the east. I have only to say that in the Auschwitz camp, for example, but also in many other prisoner camps in the east there had already been extensive epidemics. Typhus passed further and further into Germany. Dr. Rose has already told you how many cases of typhus there were, and this shows what constituted the great danger. Every closed community like a camp is a great source of danger in itself, of the danger of typhus, not only the danger of an epidemic within the camp, but also an epidemic that spreads to the surrounding civilian population. Most of the concentration camp inmates were used to work outside the camp in factories, and these came into contact with the civilian population, so you can easily see the danger of contagion. Now, in brief, the camp commander, and the camp doctor in the course of the spring of 1943 turned to me to ask me whether they could have my assistance in combating this danger.

Q. Witness, a preparatory question, first, did you have any connection with the SS, with the concentration camp, as such?

A. I had no connection with the SS or with the concentration camps; or with any office in charge of them.

Q. How come the camp commander and the camp physician of the Natzweiler concentration camp turned specifically to you?

A. As director of the Hygienic Institute I had a rather large sphere of activity in Alsace, and of course it was known in the concentration camps, too that my offices were in Strassbourg. For this reason the camp turned to me for the help it wanted in many matters, including the obtaining of vaccines and help in disinfection of the camp,

and so forth, matters which perhaps we shall turn to later.

Q. You say then that the camp turned to you because you were the hygienist in the Alsatian district around Strassbourg?

A. That is correct.

Q. You said also that the camp commander or doctor asked for your assistance?

A. Yes, that was an obvious thing for him to do, because I was right there in Strassbourg.

Q. You said further that it was roughly in the spring of 1943 that these requests for assistance were made to you; was there an epidemic in the camp already, at that time, or why did they think they needed your help?

A. At that time there was no epidemic in the camp, but the general epidemiological situation was such that an outbreak of typhus was expected at any moment, especially since transports were continually coming from the east which were infected with lice, and people who were already infected with typhus, and other camps in the neighborhood who had already had their first cases of typhus.

Q. Professor, what means did you have available to help these camps physicians; please limit yourself, first of all your vaccines?

A. I have already said that there are various vaccines available made from dead virus, and also those made from living and attenuated virus. Getting virus at that time was very difficult. The superior officers simply could not make the effective vaccines available, and in order to carry out any plans all sorts of decrees and orders existed in Germany for the planning of systematic vaccination should the danger of typhus arise.

Q. Now, witness, you have described your work in the field of vaccine production, namely that of producing a living apathogenic virus, did you begin

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this developing and working on your own initiative, or did some other agency refer the problem to you?

A. Living typhus virus was being manufactured in foreign countries at that time in great quantity, particularly in France where they had had a great deal of experience with such living virus. I have already mentioned Blanc, Baltasar, Lecolle and Legrer, and during the war protective vaccines were carried out with such living virus in North Africa. There had already been millions of such vaccinations, and of course this permitted experience to be gathered. The fact that the French, who saw this great danger also saw the necessity of such large scale vaccines, and they had also had a few fatalities. As I said, we had to use a virus strain for these vaccinations which was it is true was alive and still pathogenic for animals. In other words, a virulent virus which the pathogenic effect of which on human beings was suppressed to a large extent and that is the essence of all living vaccine manufacture, and it must occupy the central position in our considerations here. You bring about such mutation only by passing the virus through animals, and every specialist knows when the virus is passed through animals it is attenuated there more than by being cultured or bred, for instance, in chicken yolks or by being preserved in a vacuum, or at very low temperatures and only somewhat attenuated in strain.

Q. Witness, you still haven't answered my question fully whether you carried out his work on your own initiative or on the basis of an order, directive or assignment that came to you from elsewhere?

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A. In developing this living typhus vaccine --

THE PRESIDENT: Witness, you can answer that question in a very few words. Just answer the question propounded to you by your counsel.

A. (continued) This was a research assignment, as I just said, there was no military directive or directive.

Q. Witness, you have already described how research assignments were distributed this morning, and told us that in general the assignment was made on the application of a scientist for such an assignment; now what was the case here, did you work on this problem first and then receive an assignment or was there already an assignment in existence and then you began to work?

A. Oh, I see. All this work was done entirely on my own initiative, and then I saw to it that I got the necessary research assignment so that I could have the necessary funds for the work from the Reich Research Council, and then from the Medical Chief of the Luftwaffe. That is where I had my assignment from.

MR. HARDY: Your Honor, before we adjourn may I inquire from the counsel how long the examination will continue, and how long other defense counsels will take in their examination of the witness Haagen.

DR. TIPP: I have already said I will need roughly a day and a half. We have already eliminated some of the questions, I don't know if I can finish this afternoon, but I shall not need so much time tomorrow morning. What time my other colleagues will need I cannot tell you.

MR. HARDY: Do I understand Dr. Tipp is going to take the rest of the day, in spite of the fact that we sit until 5 o'clock?

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DR. TIPP: I shall use all of this day, yes.

THE PRESIDENT: Do any other defense counsel desire to examine this witness while he is on the stand?

DR. TIPP: Dr. Nelte just tells me that he will need a quarter of an hour and my colleague Krauss for Rostock fifteen minutes.

DR. FRITZ: Mr. President, I cannot say definitely now how long I shall need because I do not know how many of the questions I intend to put to the witness will be made unnecessary by Dr. Tipp's examination.

THE PRESIDENT: The Tribunal is only asking for an estimate.

DR. FRITZ: One hour.

THE PRESIDENT: Counsel, during the noon recess will you instruct your witness to answer your questions directly and simply without expostulating on matters while scientific and important the Tribunal has already been advised. Kindly instruct him and to explain him to answer these questions.

The Tribunal will now be in recess until

1:30

(Thereupon the noon recess was taken.)

AFTERNOON SESSION.

(The hearing reconvened at 1330 hours, 18 June 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

EUGEN HAAGEN - Resumed

DIRECT EXAMINATION (Continued)

BY DR. TIPP:

Q. Professor, before the recess you said that you began your work in the field of typhus on your own initiative and that in the course of this work you attained research assignments from the Medical Inspector of the Luftwaffe as well as the Reichs Research Council; now could I ask you if in your applications made before the various assignments were issued, were any details given about the work which you planned to carry out or the work which you already had carried out?

A. No details were given, of course, merely the problem as such was dealt with.

Q. You have already described to the Tribunal your work on this problem, it was to find a vaccine produced from living virus, a virus no longer pathogenic for human beings which however contained the qualities of the virus.

A. Yes that is true. Our work was limited to the development of a living vaccine and this work was based on the great experiences of foreign offices, especially the French scientific Ecole; the technical side was always carried out in animal experiments.

Q. Now, witness, did you succeed in finding a vaccine of the type described?

A. Yes we did succeed from a so-called murine typhus virus strain; from rat typhus we developed such a vaccine. The weakening was brought about through animal experiments

through cultivation in chicken eggs and thirdly through conservation procedure.

Q. Was this vaccine then tested for its effectiveness and if so, how?

A. Yes, the vaccine was tested for its effectiveness, first, of course, by animal experiments for its immunizing qualities. After this quality had been proven the first vaccinations were undertaken in order to test the effectiveness and the tolerance on human beings. This was done on volunteers.

Q. Where did you get these volunteers, Professor?

A. First of all I served myself, then the members of my institute and a number of students of the University.

Q. Now will you please tell the purpose of these experiments?

A. When one has produced a new vaccine one must test not only its effectiveness, but also its tolerability. That can be done only on human beings, animal experiments are not sufficient. At a certain stage it always becomes necessary to try it on human beings.

Q. In these vaccinations on members of the institute and students, you tested the tolerability of the vaccine; the immunizing effect of the vaccine, if I understood you correct, could not be proven by these experiments?

A. Yes, the immunizing effect can also be determined. One needs merely to make the Weill-Felix reaction, which has been mentioned in this trial, to make sure in the body serum there are protective bodies against the typhus germ. This test, I mention this because mistakes have been made here, is used not only to diagnose the disease, but also to check its immunity reaction to find the protective bodies after vaccination.

Q. We will come back to that later, witness. Now when did you achieve your aim, when did you have a vaccine of the type described and when did you develop it so far that it could be used?

A. In the spring of 1943.

Q. And when was this vaccine first used actually on a large scale or when was it first used at all?

A. The first vaccinations were carried out in May of 1943 in the Schirmeck internment camp, which belonged to the Natzweiler concentration camp. The vaccinations were performed on persons in special danger.

Q. This morning, witness, you mentioned the request of a camp doctor of the Natzweiler Concentration Camp and Schirmeck was no doubt under him; may I ask whether these Schirmeck vaccinations go back to the request of the camp physician?

A. I do not quite understand your question.

Q. Please tell me whether the vaccinations performed in Schirmeck originated with the request of the camp physician?

A. Yes, Schirmeck and Natzweiler belong together. My vaccinations there were in connection with all the work of the camp.

Q.- Then you used this vaccine for the first time in May of 1943 in Schirmek. How many persons did you vaccinate?

A.- Twenty-eight persons were vaccinated altogether.

Q.- Did you have any influence on the selection of these persons; that is, were these persons selected by you, or who selected them?

A.- I did not have any direct influence on the selection of these persons, only to that extent that I told the camp administrator and the camp doctor that we could only vaccinate people who were in a more or less good condition of health, since if this were not the case it would not correspond to our German vaccination laws. To that extent I did have some influence.

The selection was made according to the point of view that persons in special danger of typhus were selected, persons who were in the so-called east block of the camp. New transports were always coming from the East, lice infected, for the most part, so that one could count on a considerable typhus danger. In this part of the camp the danger was greater than in the parts of the camp where there were Germans and Alsations who did not come from the East.

Q.- You said, witness, the persons were selected from the group of prisoners in special danger of contracting typhus. You just mentioned the east block. Can you tell us what nationality these persons were?

A.- As far as I can remember they were of various nationalities. There were a quite number of them who spoke German, so that one could talk to them well.

Q.- Now, witness, I should like to ask you to describe how these vaccinations were carried out. Perhaps a preliminary question first. Why did you vaccinate only 28 persons? Why did you not vaccinate all the inmates of the camps there?

A.- At first I could produce the vaccine only in very small quantities. My laboratory facilities were very limited. If I had wanted to vaccinate a whole camp I would have had to have a production workshop.

That is the reason why we vaccinated only a small number of people.

Q.- Now, Professor, please describe how the vaccinations were performed.

A.- Vaccinations were performed on 26 persons altogether, in several groups. The first vaccination was of eight persons. They were given one injection of 0.5 CC of the vaccine into the breast muscle in the customary manner. The second group consisted of 20 persons, divided into two sub-groups of ten each. The first group -- let's call this Group A -- was also given 0.5 CC of the vaccine intramuscularly. Sub-group B, the last ten persons, were first given a vaccination of 0.5 CC of a killed typhus vaccine produced in the Robert Koch Institute. Then, eight days later, there was a second vaccination with a living vaccine, again 0.5, intramuscularly. I should like to say that the first vaccination with the killed vaccine, which I have just mentioned, was performed for two reasons: First of all, in order to be able to compare and see whether this preliminary examination produced more antibodies; and, in the second place, whether this preliminary examination with killed vaccine might cause any reactions or might reduce the reactions of the living vaccine.

At the same time, I carried out protective vaccinations on persons outside of the camp, on volunteers. They were again performed in such a way that there were three injections this time: the first, 0.25, the second 0.25, and the third injection 0.5 CC, of the living vaccine.

Q.- The court will be especially interested, witness, in the reactions of the persons after this vaccination. Can you tell us that?

A.- In the first group of eight persons who were given 0.5 CC of the living vaccine only once, three had a reaction that was a short fever of over 39 degrees. The rest of the persons, however, had no reaction.

In the second group, among the ten persons in Group A there were no noticeable reactions. In the other group there were very negligible

symptoms, in some cases only a headache and dejection. Typical symptoms of typhus, brain symptoms or vessel symptoms, and other symptoms, did not appear in any case.

The same was true of the third group. Here again there was no reaction.

I must say in this connection that I used a vaccine produced from rat typhus virus. I must point that out because later, in Katzweller, I used the classic epidemic or louse typhus virus vaccine,

Q.- Professor, after the vaccination did you watch the well being of the persons vaccinated?

A.- Yes, of course. After the vaccination I was in the camp frequently. I looked at the persons who had been vaccinated and was taken at their fever charts. After four weeks a final blood sample was taken to perform the Weil-Felix reaction and to see by it what degree of immunity they had developed.

Q.- Professor, you have already mentioned the Weil-Felix reaction, May I assume that the test for immunization was performed by the Weil-Felix reaction?

A.- Yes. The immunity test was performed with this serological reactions, the Weil-Felix reaction. I believe it has already been discussed here, so that I need not describe it again.

Q.- Perhaps you will tell us briefly, Professor, what is determined in the Weil-Felix reaction expressed in figures.

A.- You hear the term "titer value".....

MR. HARRY: Your Honor, I missed one point. He spoke of three groups. I didn't get the third group; I had an interruption there and didn't hear what the third group was. Could he repeat that please?

THE WITNESS: The third group was eight persons who were vaccinated in three periods, the first injection being 0.25 CC, the second 0.25 CC, and the third 0.5 CC of the living vaccine.

BY DR. TIPP:

Q.- And that was the group of volunteers?

A.- Yes, that was the group of volunteers.

Q.- Very well, witness.

You were interrupted when you were speaking of the titer values.

Will you please explain what that is?

A.- In the serological determination of immunity, a certain amount of the bacteria are brought together with a certain serum. The serum is diluted, and the highest dilution which is reached we call the final titer, and that is used. If a dilution of one to five hundred gives a reaction that is an agglutination, that is the titer.

I believe that is enough.

Q.- You said that after the vaccinations you determined the immunity of the various persons from the blood serum. I assume that was done by determining the titer values. I don't believe that the Court is interested in the individual figures, Professor, I should merely like to know what was determined about the immunizing effect through this test.

A.- The practical result is that with this living vaccine one can achieve a higher degree of immunity, according to the serological reaction, at least, than with the killed typhus vaccine. If I may give some figures —

Q.- I don't think that is necessary, witness.

If I am at all informed in this field, witness, these titer values can be determined when a person has survived a real case of typhus. Now, can these titer values, after vaccination, be compared with the titer values in the blood of a patient after he has survived the disease?

A. Yes, that is possible. I have already said that the reaction is an immunity reaction which can also be determined after disease, but I must say that the test must be performed very soon after the survival of the disease, because the amount of antibodies in the blood is soon reduced. If we want to get the comparative values, then we must make the test very soon after the disease or very soon after the vaccination. Then we can find that, as a rule, persons who have recovered from the disease have a very high titer, of 10,000 or 12,000, perhaps; but those vaccinated with killed vaccines have a titer of only 100. The first results with the living vaccine gave a higher value, up to 2,000.

Q. Then the results were very favorable, witness?

A. The results were quite favorable, yes.

Q. But were they entirely satisfactory, or were you still working on the development of the vaccine?

A. These vaccinations with rat typhus vaccine. The ideal would be to vaccinate lice and typhus with a vaccine produced from lice infected with typhus. We must expect that even though the diseases are closely related, there are certain differences, referring to the degree of etiogenic quality. The aim was to produce a louse vaccine.

Q. After this scientific interruption let us go back to the facts, witness. In the course of these vaccinations at Schirmeek were there any deaths?

A. No, there were no deaths in the vaccinations at Schirmeek.

Q. Witness, your testimony is in contradiction to the testimony of a prosecution witness whom we heard here. This is George Hirz, who testified here on the 8th of January. His testimony is on Page 1310 of the German and 1293 of the English record. Hirz said that at Schirmeek you injected 20 to 25 persons and the following days these had a high fever. The fever is said to have begun after 36 to 48

hours and two of these people died. The witness also said who had vaccinated him, the head of the camp and the Capt. in the hospital. Will you explain the differences between your testimony and the testimony of Hirz?

A. It is true that these three people, the camp head and the deputy camp head and the nurse, that was Hirz, were vaccinated with the customary vaccine on the basis of an order that camp personnel, where there was any danger of typhus, had to be vaccinated regularly against this disease. Now, the personnel was in much less danger than the inmates themselves; so in order to help the camp doctor, I supplied the vaccine and vaccinated these three persons, but I reserved the living vaccine for the persons who were in real danger. Those were the reasons why there were those alleged distinctions made.

Q. When the prisoners came to the camp they were given a careful examination by the camp doctor. In the interests of preventing disease in the camp, that was necessary. Therefore, here I merely had to observe that they were free of external symptoms of disease and to determine how strong they were.

Q. Then if I understand you correctly, you say that the medical examination was performed by the camp doctor, who made them available to you for vaccination?

A. Yes, the camp doctor and the head of the camp, together.

Q. Now, Professor, is the statement of the witness Hirz correct that after 36 to 48 hours these persons had a fever of up to 40 degrees Centigrade, 104 degrees Fahrenheit?

A. I have already said that aside from the first group there was no special reaction. Hirz himself did not know the first group, he says himself. In the second group I just testified there were no fever reactions or any other reaction.

Q. But you said, witness--oh, that was the first group.

A. Yes. And even here the reactions were quite customary such

as occur in other vaccinations, too.

Q. But Hinz also says that at the end of the fever, seven to eight days, the persons became disturbed and their speech was interfered with, and in three or four cases they stammered. Do you know anything about that?

A. When I visited these persons I did not observe any such symptoms. None of them complained, and I am sure that if any one observed those symptoms on himself he would immediately go to the doctor. Everyone was interested in doing away with these symptoms. I did not observe any disturbances or stammering. If Hinz had seen them at the time, I am convinced he would have reported them to me. He was a nurse for these persons and was responsible for them; I cannot imagine that he would have fulfilled the interest of these prisoners by keeping these things secret.

Q. You say that neither you observed such symptoms nor did Hinz report them to you. Now, witness, Hinz also said that after two days two of these experimental subjects, as he calls them, or vaccinated persons, as you call them, died. Did you observe this, witness?

A. I have already said that in the smaller experimental group no one died, because I am sure I would have noticed it and I visited there. When I looked at these persons who had been vaccinated I would order an autopsy in the case of such deaths to determine what the persons died of. Not only I would have ordered or carried out this autopsy, but the camp administration would have ordered it. One could get the idea that these people perhaps died of typhus. I must say that after a two day incubation period no one has ever died of typhus. The shortest time for deaths, that is the shortest incubation period plus length of disease was ten days to fourteen days. And these early deaths are supposed to be cases with a high pathogenic incidence directly from human beings. For this reason alone it is quite impossible.

Q. Witness, you said that in such cases you would doubtless

have had an autopsy performed. You said you heard nothing about the deaths, and that therefore there was no autopsy; is that right?

A. Yes, that is correct.

Q. I should like to remind the Court of the testimony of Hirz on Page 1298 of the English record, 1316 of the German record, who said that he immediately wrapped the bodies in paper and had them burned in the crematorium at Natzweiler. Not even the Prosecution witness was able to say, or perhaps did not want to say, how Prof. Haagen reacted to these deaths. Now one more question about this witness Hirz,. Here on the witness stand Hirz was asked, "Now witness, you realized that these experiments performed on the 20 to 25 persons were experiments for the determination of typhus in connection with the typhus disease? A. Yes, I had not the slightest doubt about it. I have fifteen years of practice behind me." I do not know, witness, what this testimony means. Perhaps I am not enough of a specialist to judge, but I may assume that you can explain what the contents of those statements is.

A. As to Mr. Hirz's statement, I can only say that I cannot understand it at all. I have no idea what experiments to determine typhus in connection with this disease are supposed to be. First of all, there were no experiments to determine typhus since there was no typhus. And I don't know any method for performing experiments on human beings to determine typhus. If by experiments, one means the removal of blood in the Weil-Felix reaction, that is something else, but that is not what he is talking about here. The witness gives as reason for his expert knowledge, that he had been a pharmacist for 15 years. That he has such a long practice behind him and considers himself an expert then in the field of contagious diseases, I can't quite understand that either. But I think one can expect that from a pharmacist--after all, pharmacists do sell vaccines for public diseases in pharmacies, one would really expect him to know what vaccine reactions are and what a real disease is. And then in the first group where a reaction did appear, he didn't know that group at all.

Q. You have already said, witness, something about Mr. Hirz's testimony that the prisoner Atloff told him that what Mr. Hirz describes was the second experiment. It seems to me that supports your statement that Mr. Hirz knew nothing about the first group, that is the eight persons. Can you tell us anything else, Professor, to explain the contradiction between your testimony and that of Mr. Hirz?

A. Hirz speaks only of one injection definitely, not of two. The vaccinated persons whom he took care of all had two injections at intervals of several days. If he had really been interested about the vaccination, he must have known that two injections were performed. That is one point. Then he says that the needles were not changed. He seems to have overlooked something there again: that for every injection a new injection needle was used which was brought from Strassbourg already sterilized, and that the technical assistant changed them, whoever knows anything about scientific work knows that in such

important work one does not use the same needle for several persons, quite aside from the fact that this is one of the most elementary demands of asepsis. Here again he probably didn't observe very carefully.

Q. Now, Professor, the question interests us whether in the camp of Schirmeek, through artificial injection of pathogenic virus you wanted to produce typhus. Did you perform such experiments at Schirmeek?

A. No, no such experiments were performed. I don't know what the purpose would have been.

Q. The if I may sum up, Professor, you were introducing a vaccine into practice after it had already been tested in animal experiments in self-experiments and in experiments on volunteers. But experiments as I have just described were not performed at Schirmeek, is that correct?

A. Yes, that is correct. We were merely introducing a vaccine which was already being used on a large scale in other countries. Perhaps I may add that at first I intended to perform further vaccinations in the Schirmeek camp in order to protect this camp as far as possible, but that in the course of the next month, I realized that the Natzweiler camp was entirely different in its whole structure and that there was much greater danger of typhus in this camp. Therefore I shifted my interest from Schirmeek to Natzweiler.

Q. Now before we go on to the work at Natzweiler, witness, I should like to clarify the following point with you. Mr. Hirz testified here that the prisoners used for vaccination were not volunteers; but you say, Professor, that your point of view is that experimental subjects should be volunteers. Can you please clearly answer this question and explain the points of view which are important in your opinion in vaccinations particularly?

A. The prisoners whom we vaccinated were not volunteers. I

would like to say the following on that point: As I have already said, I share with most scientists the point of view that the prerequisite for any experiment is the self-experiment. This was not merely a theory in my case. Every one who knows my work or saw my work knows that I performed a number of self-experiments and contracted a number of infections. I need not go into that now, but of course I tested all vaccines on myself. In this present case, if we dispensed with the element of voluntariness, I must state that according to our rules and laws in Germany, vaccinations are ordered wherever there is danger of an epidemic. This situation existed in Schirmer and Hatzweiler. There was a decree for this camp from the SS-WVHA, and decrees were sent out by the chief doctor of concentration camps. Our vaccinations were performed within these legal regulations. In the records of the trial, I find again and again the point of view that I had taken poor, helpless prisoners and treated them with murderous germs. But if one knows my work well, one can see that on the contrary I was combating these diseases. There can be no question of any criminal experiments here. I want to object very definitely to being called a criminal when I was merely fighting diseases.

Q. Well, Professor, you say that in this case you dispensed with having volunteers because it was not an experiment, but rather a vaccination, and because it is your point of view that for vaccinations it is legally permissible to make them compulsory, that you were merely carrying out a legal measure under international law?

A. Yes, this was a vaccination with a vaccine which was already being used elsewhere in the world within the framework of general vaccinations carried out on the basis of the existing regulations.

Q. Professor, aside from the vaccinations against influenza which were touched upon this morning and the vaccinations against typhus which we have just been discussing, did you do any further

work at Schirmeck?

A. No; I have already mentioned the influenza vaccination this morning and the vaccination against typhus.

Q. Was this work finished with your vaccinations in Schirmeck?

A. This was the first step; I wanted to develop yet a vaccine against epidemic typhus itself, that is, with louse typhus virus. In the course of the summer of 1943, this work was performed.

Q. Then, if I understand you correctly, you said that at the end of May 1943 the end of the first part of your work was reached and that you continued your work. Will you please briefly describe your work after May 1943.

A. As I have already said, we wanted to try to develop a living typhus vaccine against louse typhus, and in the course of the summer of 1943, we did so.

Q. Let me interrupt you a moment, witness. I should like to stick to the chronology of the document, if possible. You are speaking of the summer of 1943. I assume that you mean July and August. From the meantime, however, we have a document of the 15th of June 1943. Perhaps we can discuss it at this point and discover how this letter came to be written. That is Document NO-305, Exhibit 295, on Page 73 of the English Document Book XII. It is a letter from you dated 5 June 1943 to Oberstarzt Professor Dr. Rose. Will you please tell us how this letter came to be written? You write, "In supplementation of our telephone conversation" perhaps you will tell the Tribunal what preceded this letter.

A. This is a letter referring to the establishment of a plant for producing vaccine. Professor Rose visited me in May 1943 and we discussed two questions, first of all the possible establishment of such a manufacturing plant, and also my taking over a position as consulting hygienist. That was the pre-history of this document.

Q. You speak of the establishment of a production plant for vaccine. My next question refers to that. I quote from this document, NO-305, the last sentence, "My calculation is not right therefore, but, as Mr. Giroud indicates, thirty to forty persons are still required monthly for the manufacturing of 100,000 doses." You said this refers to the establishment of a production plant for vaccine but this formulation, thirty to forty persons needed for the production of 100,000 doses monthly, but the prosecution drew the conclusion that thirty to forty experimental subjects were needed. Can you please explain that?

A. This report is a correction of the telephone conversation between Professor Rose and myself. I gave him the number of persons needed as personnel for the production plant. This statement had not been quite right; thus I corrected myself in this letter. I said that to produce 100,000 doses per month one would need a personnel of thirty to forty persons. I took these figures from a letter from Professor Giroud who told me upon my inquiry how much personnel he needed in producing vaccine.

Q. Then this has nothing to do with the experimental subjects, witness.

A. No, it has nothing to do with any experimental subjects.

Q. Now, will you please look at Document NO-306, Exhibit 296, page 74 in the English Document Book 12. It is a letter from Professor Rose to you, dated 9 June 1943. Mr. Rose writes that based on your original papers which he enclosed he had worked out a proposal for the inspector for setting up a production plant for vaccine. Do you mean the one that Rose and you had agreed upon? Or what connection does this letter have with any human experiment allegedly carried out by you?

A. This letter, too, has nothing to do with any experiments on human beings. Professor Rose merely said that he made an application for the establishment of a vaccine-producing plant, enclosing various documents. This second paragraph is an inquiry by Professor Rose whether he had heard anything from Department I and refers to my appointment as consulting hygienist with Air Fleet "Center", which later became Air Fleet "Reich". The next sentence, "It will take some until 2-F comes out with a new research order," and so forth, was referring to the approval of money for the assignment on typhus research. I think I have explained the letter now.

Q. You said that the camp doctor of Natzweiler asked you for help and that you declared yourself willing to help in cleaning up the camp, especially in vaccination. So far, you have spoken of your work at Schirmek. When did you begin your work in Natzweiler proper?

A. It was my intention in the summer of 1943 to begin vaccination in the Natzweiler camp, but then unexpected difficulties arose which I must go into, because I think they are of significance for this trial. Professor Hirt, whose name I believe has been mentioned here repeatedly, the director of the Anatomical Institute in Strassbourg, was a member of the SS and researcher of the Ahnenerbe. As SS officer he had learned through the camp that I wanted to perform vaccinations there. He then intervened because he thought if persons outside the SS or the WVHA wanted to work in the camp in some form or other we had to have approval for this, quite aside from the fact that I had been asked to perform these vaccinations, etc. Professor Hirt told the camp doctor and myself that he was ready to get this approval and asked me to make a request to this effect to the Institute for Military Scientific Research. I had no connection with the SS or any sub-organization of the SS, nor did I know the inner organization of the SS. The application was made in the summer of 1943. I cannot remember the wording of the application exactly, but Hirt sent it on to the agency in question. I only know that the application said that I had asked for permission to vaccinate

a certain number of camp inmates. One had to make the limitation because I could produce the vaccine only in small quantities since the technical conditions did not yet exist at the institute for large-scale production. In this letter to Hirt I pointed out that there was no danger in vaccination with the new vaccine but that we had to expect a more or less strong reaction, especially a fever reaction in accordance with the variances in the individuals. I also pointed out that the people to be vaccinated had to be in good physical condition, so that they should be in more or less the same physical condition as our soldiers. I said this in order to conform with the general vaccination regulations. After some time I received from the Institute for Military Scientific Research an announcement that my request would be granted.

Q. Professor, on page 75 of the document book will you please look at Document NO-120, which is Exhibit 297. It is a letter from the Reichsfuehrer SS, Personal Staff, Institute for Military Scientific Research, dated 30 September 1943. It is signed by Mr. Sievers, and it is addressed to the Director of the Institute for Hygiene of the Reich University, Strassbourg. Mr. Sievers writes:

"I confirm receipt of your request of 16 August 1943. I shall be glad to help you and have accordingly contacted the proper source to have the desired personnel placed at your disposal."

Is this the letter you meant, witness, when you said that you were given approval in principle to carry out these vaccinations?

A. Yes, this letter created the basic prerequisites for performing the vaccinations. If we disregard the fact that for epidemiological reasons the vaccinations were justified and even necessary, this letter I believe gives us a justification to perform them.

Q. Now, were you able to carry out the vaccinations?

A. No, that wasn't as simple as that unfortunately - I say "unfortunately" because precious time was lost and I was interested in protecting the camp as soon as possible, at least to the extent that there was no longer any danger of typhus. I informed the camp doctor of the con-

tents of this letter and asked that I be allowed to commence the vaccinations, but a considerable time passed and not until November did I receive notice that we could begin with the vaccinations. Through Hirt's intervention, therefore, the whole affair had not been helped; it had even been delayed. Then, when I received the first hundred prisoners, I looked at them and I found that they were in such a condition that they were quite out of the question for vaccination. They were in very poor condition. I must say that they were prisoners that came from Auschwitz on the transport; I think eighteen of the people had already died. In such a group one really had no right to perform a vaccination. I did not do so and refused for medical reasons.

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Q.- And what did you do then, witness?

A.- I informed Hirt of this. I wrote to him frankly that these people were out of the question for vaccination and I asked for men in good physical condition.

Q.- Professor, will you please look at Document NO-12, Exhibit 293? It is in the English document book on page 78, and in the German on page 81. It is a letter from you to Professor Hirt, dated 15 November 1943. Do you mean this letter when you say that you wrote to Hirt? I shall read briefly:

"On the 13th of November, 1943, an inspection was made of the prisoners that were furnished to me by the SS-MVHA, in order to determine their suitability for the tests which have been planned for the spotted fever vaccines."

Is this the letter?

A.- Yes, this is the letter of 13 November 1943. I may point out in this letter that I asked for a hundred prisoners in good physical condition, as only in this way could I expect results which can be used for purposes of comparison.

Q.- Professor, I have something to put to you from this document which is perhaps in contradiction -- or which may be interpreted to be in contradiction -- to your testimony hitherto: You say that you wanted to vaccinate these people and the first sentence of the document seems to indicate that. You write, "their suitability for the typhus vaccinations." Further down, however, in the document you speak of testing a new vaccine. Again, further down, material which can be compared." One might conclude that these are not vaccinations but experiments. Is this not in contradiction of your testimony?

A.- No, that is not in contradiction of my statements. It is apparently necessary for me to supplement my statements by saying the following: As I said, in the Natzweiler Camp I wanted to vaccinate a fairly large number of prisoners. The vaccine was ready as far as the laboratory

was concerned; it had been tested in animal experiment; it had been tested in self-experiments, and on a small group of volunteers. I therefore know that it did not involve any longer danger for persons vaccinated and that the use of this living vaccine did not bring about any manifest disease. But when a new vaccine is used for the first time in practice it is to a certain degree an experiment, since the tolerance has still to be determined and that can be determined only on a large number of people. The dose still has to be determined and the result of the vaccination still had to be checked on a large number of people. So I admit it is no doubt true that the use of a new vaccine for the first time in practice on a large number of people could still be considered an experiment. I should like to add that in the first large-scale application the titer values and blood were examined, of course, temperature taken and all other observations were carefully made, in order to get definite final impression of the effectiveness and tolerance of the vaccine. We had to do that; it was our duty. It was a big responsibility to introduce a new vaccine like this, even if one had already experience in a small experiment on one self and volunteers. But there in this trial the word, "experiment," has been grossly misused. In this sense our vaccinations were not an "experiment." They were tests and not experiments with any uncertain goal or purpose. One can hardly speak of criminal experiments here. And in every medical journal in the world, on almost every page, we find experiments at the sick-bed, and I don't think anyone has any objection to this word. And as far as human experiments are concerned, I should like to refer to advertisements which show the public attitude of an American firm, in picture magazines which I have seen myself: antiseptics like Listerine, where they speak of human beings on whom tests have been made as guinea pigs. For this reason alone I think the word, "experiment," is used in different senses.

Q.- One term has not been cleared up yet in this document, and that

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is the last words, "comparable material," Can you please explain what that means? What did you mean by "comparable material"?

A.- That means that the investigations indicated have already been made and that the results were to be compared with one another, so that one can have really useful median results. The individual values of every immunologist varies considerably according to the constitution and general physical condition. That was one of the reason why I was very careful to get only persons in good physical condition for vaccination, since persons in poor condition react quite differently. Besides, I must point out that according to the general vaccination regulations, vaccination of any type can only be performed on healthy people, and I wanted to observe this rule strictly.

DR. TIFF: Mr. President, I am now coming to another subject. I should like to suggest recessing now. I think this would be a good point.

THE PRESIDENT: Very well; the Tribunal will be in recess.

(A short recess was taken.)

MARSHAL: Persons in the Court room will please find their seats.

THE Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. TIEP:

Q: Professor, one concluding question in this matter. You said that you intended to carry out vaccinations in Natzweiler Concentration Camp in order to immunize the camp against typhus. You further stated that these intended vaccinations were experiments in so far as they were to test the tolerability of the vaccine, is that so?

A: Yes. That is correct.

Q: Another question - in this document 121 which we discussed last it is said that the first group of inmates that were to be made available to you for vaccination were selected from other camps, and further below you said that prisoners were sent to you. One could draw the conclusion that these are therefore purely experiments and were not quite in accord to do with the immunizing character of the camp. Perhaps you can could make this clear to us.

A: Regarding these first protective vaccinations the same is true as I said before, namely, that I had no place to produce the vaccines, but could only produce small amounts of vaccine there. These are the reasons why I began vaccinations with 100 persons in Natzweiler. Regarding the choice of the selection of the persons to be vaccinated I said already that I had no immediate influence on that. I could only do this for purely medical reasons and that is why I when the first prisoners refused to carry out any vaccinations at all.

Q: Now the fact that the prisoners first to be vaccinated came from other camps is not to be attributed to your influence. If I understand you correctly that was a measure taken by the competent SS office over which you had no influence?

A: Correct. I had no influence over where the persons to be vaccinated came from.

Q: Then you don't know why prisoners from outside were put at your disposal to be vaccinated?

A: No, I don't.

Q: Now, witness, I turn to the next document on page 80 of document book 12. This is document No. 122, exhibit 298, correction, page 79. It is a letter from Rose to you of 13 December 1943. In this letter the frequently mentioned Copenhagen vaccine is mentioned. Herr Rose writes here that the testing of many vaccines simultaneously gives a clearer picture of better or worse results of a method than the testing of one vaccine alone. Further there is mention of the experiments in Buchenwald. Let me ask you first of all, Professor, what did you know in December 1943 when you received this letter about these Buchenwald experiments?

A: I heard the details about these Buchenwald experiments only from this trial from the documents. Moreover, the report on the part of Dr. Ding at the consulting conference in 1943 must be mentioned and I heard of Professor Rose's protest against these human experiments at that time.

Q: You then had no connection with these Ding experiments?

A: I never worked with Ding and know of his work only from the report at this consulting conference.

Q: The Prosecution has drawn the deduction regarding these Buchenwald experiments that the efficacy of the vaccine was tested by subsequent infection with pathogenic virus. Will you please say what you have to about that?

A: This attitude on the part of the Prosecution ignores the fact as I said several times, I never had a strain of virus which is pathogenic for human beings, consequently I could not carry out such infection as the Prosecution seems to assume. Such subsequent infection with humanly pathogenic virus I never thought of carrying out because I was working as a scientist with my own material and wasn't testing mixture for other vaccines at all.

A. As I have already said, on accession of Aherinesliav, I vaccinated some of the inmates there, with an attenuated virus in order to minimize the reactions to the vaccine. I thought that in the next vaccination that I should carry out these primary vaccinations with dead vaccines and I wanted to use such a vaccine that used a dead virus and I wanted to use a dead jolls for that. In the meantime between Schirmek vaccines and the new vaccinations in Natzweller, I had carried my work to the point where I no longer needed a dead vaccine. But the previous history was this: Professor Rose, by sending me this Copenhagen vaccine thought he was supporting me and giving me assistance. And he suggested that I include this dead vaccine in my series of vaccines. Let me say, regarding this Copenhagen vaccine that it was a liver vaccine which is said to be much more effective than the other dead vaccines, particularly than the lung vaccine; and it is said to be much more effective, as I have said and from it, in dead form a better protection could be expected. Now, it was my point of view that if we should distribute over 100 persons again and would not get other persons there would not be enough persons vaccinated to be of value for comparisons. So, I didn't see any reason for introducing the Copenhagen vaccine. I told this to Professor Rose and Professor Rose answered in the form as we have seen in the letter which constitutes this document. This would have given some basis for comparisons between the two vaccines. However, I didn't use it because I was no longer interested in it since in the meantime we had succeeded somewhat in attenuating our own virus that we could do without it. I heard no more from Professor Rose about this vaccine and never received the Copenhagen vaccine.

Q. Then you say, Professor, that this was a dead vaccine, namely the Copenhagen vaccine, and there was also your own dead vaccine which was to be used for a preliminary vaccination to reduce the reactions to the living vaccine. However, this plan, although originally intended was never carried out?

A. Yes, that is so.

Q. Now, Professor, we stopped with your letter to Professor Hirt of 15 November, '43, in which you ask him to make other prisoners available. Was this request met later and could you carry out vaccinations in Natzweiler later with your new vaccine?

A. Yes, I received the person I had requested and in December of 1943 and January of 1944, we could carry out these vaccinations. I did these vaccinations in two groups of 40 persons each with my living attenuated virus which is no longer humanly pathogenic, and this I want to state explicitly.

Q. Professor, please describe these vaccinations briefly to the Tribunal.

A. First, a group of 40 persons was vaccinated. The first vaccination was done with one cc. intramuscularly. One was a vaccine made of Murine typhus virus vaccine. In no case did local reactions of fever or other symptoms occur. The second vaccination took place a week later. This was again one cc. of vaccine introduced intramuscularly. This was no longer pathogenic to human beings. To complete the story I have to say that between the Schirmek vaccinations in May and these vaccinations, I had turned to the production of a louse typhus vaccine; and this vaccine contained living virus. Before it was used in Natzweiler as a vaccine, it was tested on ourselves that is with some collaborators, to ascertain the tolerability and effects. We were roughly ten persons, members of the institute and also students. Only then did we use the vaccine with the prisoners in Natzweiler. Four weeks after the last vaccination, there were the usual serological examinations. The Weil-Felix reaction was used. The average titer, let me say, was better than in the vaccinations with the rat virus. It was, namely, 2,000. I need not go into these details. The general reactions were normal reactions to inoculation, fever and headaches; but there were no manifestations of actually typhus as a result of inoculations.

Q. You said that you carried out these vaccinations on the first group through intramuscular injections, if I understood you correctly, but you are speaking of a first group so I assume there must have been a second group. How did you carry out the vaccination of the second group?

A. It occurred to me that instead of injecting the vaccine, the vaccination could be carried out by scarifying the skin in the same way that you scrape the skin when you make a small pox vaccination. Therefore, same as with the first group, with the same living virus vaccine, I vaccinated 40 additional persons with scarification of the skin. Let me point out the experiments on myself and on my assistants were carried out in the same way, with scarification of the skin. The reactions were comparatively mild, corresponding roughly to the reactions to a vascular typhus vaccine reactions so that we had no misgivings about undertaking this kind of vaccination.

Q. You described the reactions of yourself and the volunteers as very slight. Now, the reactions of the prisoners were stronger, were they not?

A. Yes, they were stronger again. And then we can only explain that by believing that the general state of health among the prisoners was lower than among my associates, but there was no such thing as a natural manifestation of typhus or any fatalities.

Q. Professor, this work was done as you saw around December of '43 and January of '44. We have a document from this time which I should like to discuss with you at this time. This is Document No. 138, Exhibit 300. It is in Document Book 12 on Page 81. This is a correspondence between the Reich Research Council and yourself. First of all I am interested in here in your letter to the President of the Reich Research Council of 12 January 1944, Particularly number two which concerns itself with typhus. You refer here to vaccinations that you carried out, and you say, and I quote, "The effects could be tested on 8 persons so far" What effects are you talking about here?

A. This report to the Reich Research Council refers to vaccinations that I performed in Schirmek, and I am mentioning here the one group of 8 persons of May, 1943, that were vaccinated with murine typhus vaccine. This letter then, was written roughly at the same time as my vaccinations in Natzweiler with the louse vaccine. I was referring to this work when I said that experiments were underway to ascertain whether with an epidemic provaxek similar results could be obtained.

Q I can assume, Professor, from the contents of this document that the effects you are referring to are the Weil-Felix reactions, is that so?

A Yes, that is so.

Q In the last sentence of this, vaccine the concept of the anti-infections effectiveness of the dry vaccine is mentioned; it is to be tested on human beings; we shall return to that concept later. You have already said that there were no fatalities and no manifestations of typhus as a result of these qualifications, is that so?

A Yes, I can repeat that. There were no manifestations of typhus and there were no fatalities.

Q But, Professor, to this statement I shall have to put to you something that was said before this Tribunal, and which is quite different from what you have just said. I am referring to the testimony of the witness, Edith Schmidt. On 9 January 1947, on page 1371 of the transcript she said that you had carried out vaccination experiments on 100 to 150 persons in Natzweiler, and of these experiments of the control group roughly 50 are said to have died. Miss Schmidt stated that she knew this from notes that your technical assistant Miss Crodel had made about the typhus experiments at Natzweiler. Can you please tell the Tribunal what notes Miss Schmidt was referring to; in other words how do you explain her testimony?

A It is utterly impossible for Fraulein Schmidt to have seen records of notes of my vaccinations in Natzweiler in which fatalities occurred, because as I have already said no one died showing the vaccinations. These notes of Fraulein Crodel's that Fraulein Schmidt saw do not refer to the vaccinations. That can be seen from the numbers that Fraulein Schmidt mentioned, because I only vaccinated 60 persons at Natzweiler, not 150 to 200 as the witness stated. This number and the concept of a control group the witness apparently took from later writings, which is to be discussed hereafter, but I can imagine what notes she could have been referring to.

Q Please do that witness!

A The witness states correctly when these notes were made, because she says the sun was shining on the pages. That must have been in the spring or summer of 1944. This corresponds with the time when the typhus epidemic was raging in the camp. Thus I am assuming that Fraulein Schmidt really did see genuine notes of some sort.

Q Then witness you are saying that these were notes that were made in the course of an epidemic that took place in Natzweiler, can you tell us the time when this epidemic broke out?

A So far as I can state from memory the epidemic broke out in February or March of 1944. Gradually the number of cases became very large, and in the summer it represented the very considerable number of roughly 1200.

Q Let me point out in this connection that this epidemic is confirmed by two prosecution witnesses, Grandjean on 7 January, page 1099 of the transcript, and the witness Holl on 3 January 1947, page 1058 of the English transcript. Both witnesses stated that in the spring of 1944 and also in the summer following there was a severe typhus epidemic in Natzweiler. The witness Grandjean gave the number as 1200 to 1400 cases, as I remember, thus this would agree with what you have just said, witness. Now, the most important question in this connection, did the outbreak of this epidemic have any connection with your vaccinations, what I mean is were your vaccinations the cause of this epidemic?

A No, there was no connection between the epidemic and our vaccinations. Our vaccinations had already been concluded in January 1944, and the first typhus cases occurred in February or March, and they were brought to the camp from outside, either by transports or from other camps. Let me repeat that the sick people were taken from outside camps to Schirmack where they were treated in a special department, because there was no way of isolating them in the outside camps.

Q Let me point out the testimony of Grandjean about 6 January, page 1115, who says the same. He said he was a nurse in the typhus

department of Metzweiler, and the sick persons whom he had to tend to came from the various commandoes and from the camp itself. Now, witness, you said that the notes that Fraulein Schmidt mentioned could be in some way related to this epidemic, perhaps you could explain that to the Tribunal at greater length.

A. In order to be sure of a diagnosis that typhus really existed in a certain case one carried out the Weil-Felix reaction test, and took blood tests which were sent to the competent medical clinic to be analyzed. This clinic was in my hygienic institute in Strasbourg. Thus in the course of time we received a large number of blood samples of persons who were suspected of having typhus and were actually sick with typhus. This was a perfectly usual diagnostic examination, such as is usually carried out when typhus is expected, in order to clarify the diagnosis. It is apparent that I was interested in these cases to get a complete picture of the serological behaviour of typhus patients. In my institute a doctors' thesis had been written on this subject, and for this reason the notes of these cases, if Miss Schmidt really saw the genuine notes, were supplied with notes so that we should not have to wait for further material. In this way it is of course quite possible that Fraulein Schmidt did add up 50 deaths.

Q. You say then that the cases Frl. Schmidt mentioned were not deaths that occurred in the course of these vaccinations, but were deaths in the course of cases of typhus that occurred during the epidemic in the camp?

A. Yes, that is so. That can be seen from the fact of the time relation between the deaths of the epidemic and the alleged deaths of the vaccinations. The epidemic was in the summer. Miss Schmidt states that correctly, and I must assume that the notes she saw were the records of the serological tests, and which she falsely construed.

Q. Fraulein Schmidt said a lot about your work and yourself, Professor; we shall have to go into her testimony at considerable length; first, about herself, witness, she said that from 1 February on she was active under you in the hygienic institute, and gave the

serological bacteriological courses to the students, is that so?

A Yes, it is. Miss Schmidt from 1942 or 1942 on she was a technical assistant. She was an assistant instructor of courses, and made the preparations for the practical students courses and assisted in the teaching of the courses themselves. Miss Schmidt, however, was not used in other technical work because she didn't have the necessary training, particularly not in the field of typhus, and for this reason she could not have had sufficient knowledge to be able to evaluate these duties.

Q Then the witness simply prepared the students courses, but had nothing to do with the research work, is that so?

A Yes.

Q Professor, the witness said that she was the only assistant in the institute who was not vaccinated against typhus, is that so?

A No, in the institute only that personnel was vaccinated against typhus that actually worked in the typhus laboratory. Miss Schmidt was not vaccinated because she was not used in this work. However, despite the fact that she was not vaccinated not realizing the danger she was running and the danger she might be causing for others, she entered the laboratory, although she was not permitted to do so. No one who knows typhus would do so.

Q. Was this prohibition something unusual; was this something that can be traced back to the desire to maintain secrecy?

A. No, that was not the reason. This was purely a precautionary measure. When working with the germs of dangerous diseases you have to be most careful and laboratories of this sort in all clinics are run with the same precautions. No one is to enter laboratories who does not work there. This had nothing to do with maintaining secrecy.

Q. The witness tried to make her testimony sound particularly weighty by saying she was the only Alsatian in the institute. She probably intended that would indicate that she was the only one that could tell the real truth about the work. Is this statement of hers correct?

A. That testimony is already refuted by the effect that on this witness stand there was another Alsatian, Fraulein Eyer, from my institute. There were at least ten out of the nineteen assistants Alsations whom I could name now. In other words that testimony of Fraulein Schmidt is not correct.

Q. Now, Professor, further regarding Fraulein Schmidt's testimony. When asked by the prosecution whether you did breed a virulent typhus virus in your laboratory, she replied, "Yes, and this was done with guinea pigs." She also stated that you, witness, had taken these guinea pigs to Natzweiler in order to infect the prisoners with them. What truth is there in that?

A. This statement is also completely wrong. It is correct to that extent only that we did keep infected guinea pigs in the laboratory with typhus virus because, as every specialist knows, the guinea pigs are, so to speak, the virus reservoir from which we could draw our virus whenever we wanted it, but this does not mean that the virus in these guinea pigs was pathogenic various. On the contrary, let me put that again that the more often a virus comes through an animal the more diluted it becomes.

Q. When you say pathogenic, you mean pathogenic to human beings?

A. Yes, I always do when I use that term. Let me repeat again, we did not have any virus pathogenic to human beings. Miss Schmidt said we took the infected guinea pigs to Natzweiler to infect the prisoners. For the reason I have just given that is practically impossible; moreover, you cannot artificially infect human beings with typhus in the way that Miss Schmidt seems to imagine and let guinea pigs run around and spread the germs. That is not the way you get typhus. That is not so. If a person is artificially infected with typhus, and this we know from literature, then it must be done from the fresh blood of another human being who has just gotten the disease and this must be transmitted to the healthy person who is to be infected. As we know from literature, that is the most certain way of infecting a person artificially with typhus. Every other way of infecting is uncertain and is therefore not to be used in any sort of experimentation. However, Fraulein Schmidt is correct in saying we took guinea pigs to Natzweiler; however, these were nice healthy guinea pigs and they were taken there because the prisoners were breeding guinea pigs in Natzweiler and also breeding mice, because that gave them a great deal of pleasure. I offer for collaboration of this the statement of Attendant Kaute.

Q. Then you are saying, witness, that Miss Schmidt had nothing to do with your actual research work, that she was not active in the typhus laboratory and that she was never alone or with you in Natzweiler. In this case, where do you think Miss Schmidt received all the knowledge she alleges to have and to which she testified here?

A. This knowledge she got from us or from me directly during our intermissions for tea at the institute. All the workers got together and the work was talked of without any effort to keep secrecy. Miss Schmidt was frequently at these intermissions for tea and heard all this there or later and reported on it later in this trial. The picture that she drew up is altogether incorrect, however.

Q. Something else that Miss Schmidt said seems important to me. Witness, she was asked if she knew of the Blanc vaccine from the Pasteur

Institute in Tunis. She said yes. Then she was asked if she knew if this vaccine, like yours, was made from living attenuated virus; she said that the Blanc vaccine was not used because of its dangerousness. Is that so what she says?

A. This statement of hers is also incorrect. I am sorry that Blanc is not here personally in order to refute this statement. It is absurd. Of course, Blanc's vaccine was made of living attenuated virus and had already been used to a large extent. Several million persons in North Africa were inoculated with this vaccine. There exist publications on this subject, too. The use of living attenuated virus is moreover quite old. The smallpox vaccine is the oldest we know that there is, Pasteur's hydrophobia rabies vaccine and the yellow fever vaccine, all of these are made with living attenuated virus; also the Calmette's tuberculosis vaccine, Strong's plague vaccine, etc. All of these having living virus in them.

Q. You mention Blanc's work, Professor. May I ask whether in completing your vaccine papers and in studying literature you made use of these French works on the subject?

A. Yes, I did, particularly on the work of French researchers because they seem worthy of emulation and to that extent I think that Miss Schmidt is correct.

Q. Miss Schmidt stated that you had used French works on this subject; this testimony is in the transcript of 9 January 1947, page 1380 of the English transcript. Witness, aside from Miss Schmidt, whose testimony I should like to leave for the moment, we also heard from Fraulein Olga Eyer. We had her on 15 January 1947, page 1755 ff of the English transcript. She said that you vaccinated with virulent vaccines. To that extent I believe she is correct, isn't she?

A. Yes, she heard me say that myself because she was my secretary and took care of my correspondence.

Q. Did Fraulein Eyer have medical knowledge? Did she have any specialized training in medicine?

A. No, Fraulein Eyer had no medical training, nor was she a medical technical assistant, nor was she trained as such. She was simply a secretary and in this capacity, because she had to do a lot of writing for me, she heard and used lots of medical expressions and terms. I am sure that she did not always understand these terms, because it is very difficult to do so unless you have the necessary medical training.

Q. Fraulein Eyer also admitted that before the Tribunal. She was asked whether she knew the report you had dictated and she said on page 7070 of the English transcript, "I wrote the reports but I don't know what was in them. I am not an expert and I have never studied medicine."

Now, another point regarding Fraulein Eyer's testimony. She stated correctly that you worked with virulent, that is living vaccines, but she further stated that this virulent vaccine brought about the disease. What do you have to say about that?

A. When Miss Eyer is speaking of virulent vaccine, this corresponds to what I said in my affidavit yesterday. These are living virus but they are not pathogenic for human beings, so she is correct in speaking of the living virus because that was what it was in the vaccine, but that this virulent vaccine should cause the disease is completely erroneous and simply proves again how difficult it is to use the terms correctly and what little value such testimony can have.

Q. Now, Professor, something most confused that the witness said was, when being examined by Mr. Hardy, she said, "Yes, virulent vaccine was used." Then Mr. Hardy asked, "Well, if you say virulent vaccine, do you mean virulent virus?" Then she said, "Yes, I meant to say virulent virus." I assume that Mr. Hardy was referring here to pathogenic virus, although this would make this matter much clearer. Perhaps you can say something about this testimony?

A Here the ideas that Fraulein Eyer has are completely mixed up. Every living vaccine does contain living and virulent virus, as I have already said. However, the important fact and the decisive element of the question is that this virus is no longer pathogenic for human beings. We have got to distinguish between "virulent" and "pathogenic" for human beings. Only the latter causes illness in human beings.

Q It is your opinion then, Professor, that this witness' testimony gives only a very confused picture of the real situation and that the witness' knowledge did not suffice to correctly understand this difficult problem of virus and vaccine?

A Yes, that is what I want to say. Let me say also that Fraulein Eyer had no idea of what was going on. As a specialist, I must regard her testimony here as completely worthless.

Q Now in conclusion I want to quote something else she said. She answered my colleague Dr. Fritz' question saying: "As I have already said, I don't know enough about this." This statement, which seems to be the most decisive thing she said, is on page 1778 of the English record.

Now, to go along chronologically, Professor, when we stopped we were discussing your activity in connection with the epidemic at Natzweiler. You said that you carried on the serological examinations in your institute. Did you confine yourself to this, or did you do anything else in the camp in connection with the epidemic?

A Yes. I have already told you that the camp commander asked me specifically to help render the camp sanitary. The camp, it is true, did have a delousing station but it was not large enough to take care of this acute situation. Particularly, the prisoner physicians drew my attention to this fact many times. When I was asked, then, to help them in this crisis, I made available to them a good disinfecting station that was in the Institute and which I had taken to Natzweiler. This substantially increased the delousing capacity in the camp so that

it certainly contributed to protecting many of the prisoners from typhus and thus from certain death.

I also gave my assistance to the surgical department by turning over sterilization apparatus. I had one steam and two dry sterilizers which I made available. There is some correspondence on this.

Q I shall have to bring up a few documents, Professor, which the prosecution put in in connection with the work at Natzweiler, apparently to prove that you carried on human experimentation in Natzweiler.

The first one is on page 85 of the document book, document number NO-134, Exhibit 301. This is a letter from you to Obersturmfuehrer Dr. Krieger, Concentration Camp Natzweiler. You speak here of sending two fever thermometers, and you ask him to send you a list of those vaccinated, stating their age and when they were vaccinated. What does this letter refer to?

A This letter you are mentioning refers to the fact that the camp had no or too few clinical thermometers and the prisoner doctors asked me to supply some. I then sent them two.

Then, in the case of the six persons vaccinated who are named here, these are camp personnel whose serological examination I wanted to enter into the records. They had been vaccinated with dead vaccines, and, as I have already told you, I was keeping an exhaustive serological record of all these vaccinations. They had nothing to do directly with my vaccinations in the camp.

Q I turn now to the next document at page 100 in the document book XII. This is NO-133, Exhibit 311. This is a letter from you to the camp surgeon at the concentration camp Dachau of 21 October 1944. You are asking that fever graphs be sent to you that were drawn up by a Dutch doctor in Natzweiler. What were they?

A This Dutch doctor was a prisoner doctor who had helped me with my vaccinations at Natzweiler, and who was in charge of the fever graphs. I, of course, wanted to have these graphs in the autumn for

my records when the camp was moved. It was very important to me to have these graphs, and I sent for them and got them.

Q Now the third document I want to bring up is on page 102. This is document NO-136, Exhibit 313. This is a letter of yours of 16 November 1944 to the camp surgeon of the concentration camp Natzweiler, Untersturmfuehrer Rode. You are asking here for one autoclave, one steam vessel, and one round dry sterilizer. Does this apparatus have anything to do with your alleged human experimentation?

A No. As I have said, this equipment was that which I had made available to the surgical department, and after the camp was dissolved, I wanted that back because it was valuable apparatus, particularly since we had had a direct bomb hit on our institute and lost a lot of equipment. This apparatus had nothing at all to do with human experimentation. I stress that this was apparatus used exclusively in the surgical department.

Q You said that your vaccinations were carried out in December of 1943 and January of 1944. Thus they occurred before the epidemic which, according to your testimony, took place in the spring and summer of 1944. In the course of the epidemic, could you ascertain whether the vaccine you had used on the prisoners was effective?

A Of course we could. All the prisoners were in the camp and none of these prisoners fell sick of typhus during the epidemic.

Q What was the course of your work in typhus vaccines after February 1944?

A I might return to the vaccinations of the winter of 1943-1944. Contrary to our expectations, some of those vaccinated had more severe reactions to the vaccination. Thus it could not yet be used on a large scale. My work, after these first vaccinations, was directed toward developing the vaccine by storing it away for a longer length of time toward further attenuating the vaccines so that the reactions would not be so severe. We reached that aim in the summer of 1944. Then, as I have said, we had the fortunate result that of those

whom we had vaccinated in the winter, none of them fell sick of typhus. Therefore, I wished to continue with my vaccinations and asked for a larger number, namely, two hundred persons to be vaccinated so that I could carry out the vaccinations.

Q I assume, Professor, that you made this request through the same channel that you have already mentioned, namely, Professor Hirt.

A That is correct.

Q Now, Professor, please take a look at two documents put in by the prosecution. The first is on page 88 of the document book, document NO-123, Exhibit 303. This is a letter from you to Professor Hirt of 9 May 1944. There is an appendix, another letter of 27 June 1944, from you to Hirt. This is document 127, Exhibit 306, and this is on page 84. Please take a look at those two letters, Professor, and tell me whether you were thinking of them when you just gave your testimony.

A.- Yes, I was referring to these two letters.

Q.- I turn now to Document NO-123. You mentioned there a study by you regarding your work with dry typhus vaccine. You say that your work showed that this vaccine had highly anti-infectious results. I understand that you mean that this vaccine was a protection against the disease itself. You used the same expression in Document NO-28, your report to the Reich Research Council, of 21 January 1944, and I believe I am correct in assuming that this concept is the core of the Prosecution's charge. The Prosecution believes that to test the efficacy of this vaccine the persons vaccinated were subsequently infected with virulent or as you call it pathogenic virus, and this deduction is supported by what you say in Document NO-127, because here you speak of subsequent infection with virulent typhus germs. Now in order to clarify this point will you please explain to the Tribunal in what way you tested the anti-infectious effects of the vaccine, or at any rate how did you wish to test this on 9 May 1944?

A.- This is such an important question that I must go into some details in order to answer it, and above all to make myself comprehensible. If I contrast the antitoxic to the anti-infectious effects, then I must refer to what I said at the beginning of my examination. A virus made from killed, which is a virulent virus, I differentiated from the vaccine made from living, virulent virus, and said that in virus diseases the killed virus, the killed vaccine, does not protect the person vaccinated against contracting the disease. In other words, it is not anti-infectious, but merely a means of reducing the severity of the disease. In other words, it only reduces the toxic effects of the germ. However, the purpose of anti-infectious vaccinations is to prevent the person contracting the disease at all. In other words, it is both anti-toxic and anti-infectious. The anti-infectious effects of the vaccine, however, result from the fact that like a natural infection, it immunizes the hu-

man body against subsequent infection with the same disease. To substantiate this we have billions of cases of vaccination with other living virus. Let me point out this is one example: The vaccination with smallpox virus. What I am saying here is that we know that we have a certain — we have an absolutely certain anti-infectious protection. From this example you can see that living virus would result in such an anti-infectious vaccine. This immunity results if there are enough antibodies in the blood or tissues. These antibodies cancel out the effects of the germ that enters the body when a person contracts the disease. This virus is effective because its antigens are retained. The antigen is introduced into the body and is able to protect the body against subsequent infection, protect it against the toxicity of the disease germ. These antibodies are formed in the tissue and are then captured into the body fluids, namely the blood or blood serum. These protective bodies in the blood we can demonstrate the existence of by the necessary serological examination swiftly. That means that the vaccine content of antibodies rapidly decreases, but we know that the absence of antibodies in the blood is no proof that the body is not immune, no protection against new disease. That is very important for understanding this whole problem. The important factor is the immunity of the tissue, namely its content of antibodies. This content, however, cannot be proved directly but has to be proved indirectly in a serological way in that the titer values are analyzed before and after any subsequent vaccination. Then if the content of antibodies in a typhus vaccine sinks, we still cannot draw any conclusions regarding the degree of immunization of the person involved. But we can undertake a subsequent vaccination and from it draw enormously valuable conclusions. Two things can possibly happen in such a subsequent vaccination. First, the titer values will again rise, that is to say, the organism has reacted to the new vaccination by creating new protective bodies which have been captured into the blood. This would have been a person who had previously

not been fully immunized. However, if we vaccinate a person in whom the titer values have sunk and the titer values do not then rise after the subsequent vaccination, then this proves that the person was completely immunized. It proves that the body does not create any more antibodies, and consequently no more antibodies appear in the blood. In order to ascertain this, you do not have to carry out an infection with a humanly pathogenic virus, but you can use an attenuated, apathogenic virus such as we had in the virus. It was with the use of such a virus that the ascertainties were made of which this document speaks. These subsequent infections are referred to as "infections" both by me and in literature, but the virus in question is always an attenuated, apathogenic virus. These are the scientific insights I have felt it necessary for me to state in order to allow this problem to be correctly evaluated.

In Natzeiler also with the persons who had been vaccinated we carried out this subsequent testing in a few weeks after the first vaccinated received a subsequent third vaccination, and then we conducted the necessary serological examinations. It turned out that all of these, all those who had been vaccinated, did not have any rise in titer values after the subsequent vaccination, proving that they had already all been immune.

For purposes of comparison we now add the group of 40 persons who had been vaccinated by skin scarification and we used them as a control group. I believe I need not go any further into these scientific matters. Further practical proof of the anti-infectious protection is to be found also in the fact that none of these vaccinated fell ill of typhus during the epidemic.

Q.- Witness, before I continue in our discussion of these documents, an intermediary question: you said that in the way described, you tested the efficacy of your new vaccine in the laboratory already in December 1943 and January 1944. You further stated that your scientific con-

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clusions prove to be correct according to what happened in the epidemic at Matzweiler, but I don't see why in June 1944 you planned, as can be seen from document NO-127, to start a new experimental series with 200 persons. Why did you do that?

A.- You are overlooking the fact, counsel, that above all, it was my intention to develop and to carry out vaccinations throughout the whole camp in order to render the whole camp immune so that there would be no further danger of typhus. And I also wished to eliminate this source of danger for the civilian population of Alsacia.

A (continued) Since we could not carry out a larger production in the summer of 1944, I could not do this on a large scale, but I nevertheless felt that I could vaccinate 200 more. Thus making use of the experience we had from the first series, we wished to compare the general reactions that would occur in this second series.

Q. Now, witness, turn to Document NO-127. You said that probably there would not be such long lasting reactions as there were in the preliminary experiments. Now, when you use the expression "preliminary experiments", what do you mean and what is your reason for thinking that there the reactions would be less severe?

A. The preliminary experiments referred to are the first group that was vaccinated in the winter of 1943-'44 in which we ascertained that the reaction had to be reduced before the vaccine could be further used. This we did by storing the vaccine away for a longer period of time. I now had this stored away vaccine available because I had done no further vaccinating. In the meantime, I was able to store this vaccine away, and when we used it again, we saw that the reaction was considerably less severe.

Q. But, Professor, let me put this to you: in the next paragraph you speak of subsequent infection with virulent typhus germs, and you say that this was necessary in order to prove clearly the anti-infectious effects of the vaccine. But you just said that you wanted to test the anti-infectious effect by subsequent vaccination and serological examination. Now how can these two things what you just said on the stand and what is stated here in this document be brought into any sort of an agreement with one another? It looks to me like a contradiction.

A. I admit that when you see this statement from the prospective of this trial, it does look a little suspicious, and I can't hold it against a layman for reading into my words a meaning that was not intended. To explain this sentence, I may return to what I said to explain the terms anti-infectious immunity and subsequent infection. When I say subsequent infection, I am referring to the subsequent

vaccination with living virulent virus containing vaccine, namely the third vaccination that I carried out in this group.

Q Professor, you are making synonymous the word "infection" with "vaccination", using vaccines from living -- namely, virulent-virus. Is the fact that you are making these words synonyms an invention of your own, or is this customary usage in literature and in science?

A Every vaccination with a vaccine that contains living virus in an infection per se. That I must emphasize very clearly. For this reason alone, I had no misgivings about using the word in this context; moreover, I must emphasize, I didn't intend to let the persons who read my letter see clearly into my intentions and what I was doing, so that I used this expression here with no misgivings at all.

Q Now, Professor, why were you being so secretive about this?

A Well, I knew that this problem or similar problems were being worked on elsewhere, but I didn't know whether or not my letter would fall into the hands of persons who would be interested in the way I was approaching the problem; and because these were important new scientific discoveries, which I of course wanted to reserve the right to evaluate, I phrased myself somewhat unclearly to keep my secrets to myself. To determine anti-infectious immunity, I carried out the serological examinations that I already mentioned. These serological examinations have been carried out in other virus diseases -- in smallpox, above all, and it had proved itself in animal experiments. I carried out examinations in this matter of smallpox for ten or twelve years and had proved the anti-infectious immunity by such indirect methods.

Q Professor, is this synonymous use "infection" with "vaccination", "subsequent vaccination" and "subsequent infection", customary in literature? If so, perhaps you could give the Tribunal an example.

A Yes. In literature also we find these two words used synonymously, so that I had no misgivings in using this word. As example, I can give you the title of a French work by Blanc, Noury and Baltazard,

in the publication of the French Academy of Science. This is Volume 201, page 1226, year 1935. The title reads: "Prescence et pramunition en cours du typhus exanthematique et en cours d' une infection inapparente par le virus biliaire."

Q Witness, please speak more slowly, otherwise the correct terms will not get into the record.

A The translation: "prescence and pramunition are very difficult to translate. "In the course of typhus exanthematicus and in the course of an invisible infection by virus combined with gall." The two words used in the title, "prescence" and "pramunition", are difficult to translate. They mean roughly, the continuance of the germ to exist in the organism, and pre-immunization. I might read a brief excerpt from this text: "Nine of those vaccinated were examined by infection with pure virus. One reacted to this virulent inoculation." The authors here are using "inoculation" and "infection" synonymously. They then continue: "From numerous subsequent experiments, we have ascertained that the faccine virus (virus vaccin) remains in the organism of the person vaccinated for 25 to 30 days." I quote further: "The subsequent inoculation was carried out at the moment when the persons vaccinated had an inapparent infection (infection inapparente). Comparison experiments show that a vaccine killed with phenol provides no immunization against a virulent infection (infection virulente), and it was this time that the inoculation took place." Here these French authors are obviously using "vaccination" and "infection" synonymously. Thus you can see in what context the word "infection" can be used.

DR. TIFF: Mr. President, the work that the witness just cited is unfortunately available only in French, but I believe that what you have heard from it already is enough to serve our purposes. If you wish, however, I can have the work translated.

THE PRESIDENT: If counsel believes that any such extracts for any such work can be held to the Tribunal, they can be translated and

submitted as a document. It is not necessary to take the time of the Tribunal listening to a witness read them from the stand. Anything like that can be more simply submitted. How much longer, counsel, do you anticipate this examination of this witness will continue?

DR. TIPP: One hour at the most tomorrow.

THE PRESIDENT: I will hand to the clerk two extra copies of this German document which are not necessary for the Tribunal. The Tribunal will now be in recess until nine-thirty tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until nine-thirty o'clock tomorrow morning.

(The Tribunal adjourned until 19 June 1947, 0930 hours.)

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Court 1

Official Transcript of the American
Military Tribunal in the matter of the
United States of America, against
Karl Brandt, et al, defendants, sitting
at Nuernberg, Germany, on 19 June, 1947,
0930-045, Justice Beals, presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States
of America and this Honorable Tribunal

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain whether the defendants
are all present in Court?

THE MARSHAL: May it please Your Honors, all the defendants are all
present in Court?

THE PRESIDENT: The Secretary General will note the presence of all
the defendants in Court.

I should like to ask the Prosecution if they have any idea concerning
the number of witnesses who will be called by the Prosecution in rebuttal?

MR. HADLY: Off hand, Your Honor, I can recall that I intend to call
perhaps five more witnesses in rebuttal in behalf of the Prosecution.
Those witnesses will not take more than an hour on direct examination
on each occasion. There may be more or there may be less, but I should
say approximately five.

THE PRESIDENT: The Tribunal was only inquiring for an approximation
of the time. It is necessary that the Tribunal expedite the close of
the evidence to the greatest possible extent. The Tribunal will be in
session at least Saturday morning. Whether or not an afternoon session
will be held Saturday will be announced later. Counsel may proceed with

the witness.

The witness is reminded that he is still under oath.

DR. HADGEN (Resumed)

DIRECT EXAMINATION (Continued)



Court 1

BY DR. TIFF:

Q Professor, yesterday we stopped when we were discussing Document NO 127, page 94 in Document Book 12. He last discussed the way in which you tested the effects of your vaccine against the disease itself, that is the anti-infectious immunity and also what plans you had for the future in this direction. Perhaps by way of transition you could clarify this concept in two or three sentences?

A To prove anti-infectious immunity we have two possibilities. One, of course, is observation of the vaccinated person during an epidemic. The other is a laboratory procedure, which I may, perhaps elucidate briefly. This group of those already twice vaccinated was given a third subsequent vaccination of the cultural vaccine. This third vaccination was not carried out in order to give additional protection by way of vaccination, rather its purpose was by serological means to ascertain any changes in the titer values after the entrance into the body of the antigens. We are here not interested the effects of the pathogenic components, but only the effects of the antigenic components. Since the purpose of the third vaccination was not immunization but rather a test of immunization, I had no misgivings, following the example of other authors in speaking of this as an infection or subsequent infection, but I must again emphasize that this vaccine contained no components pathogenic to human beings of, after this renewed introduction are formed, which will manifest itself in a new increase in the titer values as determined by the Weil-Felix reaction, this proves that the body had not been completely immunized theretofore. The body tissues reacted by manufacturing new anti-bodies which then entered into the blood. If the titer value in this subsequent inoculation remains unchanged, then we can draw the conclusion that the organism has complete immunity. The tissues formed new anti-bodies, and therefore none appeared in the blood. That is a synopsis of what I said yesterday.

Q Then Professor you say that the subsequent infection, mentioned in Document NO 127, with virulent typhus germs was to be a subsequent

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vaccination with your virulent, that is to say living, typhus virus vaccine which was not pathogenic for human beings, is that correct?

A. Yes, that is correct.

Q. Then you make synonymous the two terms, "subsequent infection" and "subsequent inoculation"?

A. Yes.

Q. And I asked you yesterday whether the interchange of these two words or concepts was a special on your part, or whether the interchange of these two words or concepts can be found in literature; you answered this question in the affirmative saying that the interchange of these words was customary in literature, and to prove this you cited a French paper. Now, witness, you speak French, and consequently it is to be expected of you that you might have used French terms here, but it is not to be expected that the Tribunal or the other defendants and defense counsel are so familiar with French as to understand these technical terms. Therefore, it would be expedient if you would briefly repeat in simple German what it was you stated yesterday using the French terms.

A. I said as a model for the terminology I used I had taken another authors, and I mentioned as an example a paper by the French scientists, Blanc, Moury, and Baltazar, in the publications of the French Academy of Science. This is a volume 201, page 1226 of the year 1935. I shall repeat the title once again in German; "Presence and promunition in the course of typhus exanthematicus and in the course of an inapparent infection from a virus combined with gall." Again a brief excerpt from text: Nine of these vaccinated were tested by being given an infection with pure virus. "In other words, the authors are here equating infection and inoculation. They continue, "From numerous later experiments we found out that the vaccine virus remained in the organism for 25-30 days. The subsequent inoculation was administered at the time when the vaccinated persons had a hidden infection. From comparison it was ascertain that a virus killed with phenol had no effect on a virulent infection."

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Court 1

I believe that is all I have to repeat of this particular work. Now, if one looks at this paper critically, one sees immediately that the authors undertook an infection with a pathogenic virus. In other words, they did exactly what we are charged with having done here, namely infecting human beings with a pathogenic virus. I have said several times that such experiments with pathogenic virus were not undertaken by us.

MR. HARDY: I presume, Your Honor, that the defense counsel will have these excerpts in French translated into the English and German languages and submitted to the Tribunal, in accordance with the instructions of the Tribunal yesterday.

DR. TIPP: Mr. President, I did not understand the Tribunal to request that this should be put in evidence. I thought the Tribunal said if I wished to submit it I could do so. If, however, it was the wish of the Tribunal, I shall have the document put in evidence.

THE PRESIDENT: Defense counsel correctly understood the suggestion made by the Tribunal. Does the prosecution desire that this be translated and made a part of the record?

MR. HARDY: Your Honor, it seems they are making quite an issue of it. I think it would be well that it be translated into the English language so that we can interpret it in our briefs as well as Dr. Haagen's interpretation.

THE PRESIDENT: Very well, the defense counsel will comply with the suggestion made by the prosecution.

DR. TIPP: Very well, Your Honor.

BY DR. TIPP:

Q. Professor, I think the subsequent inoculation question has been definitely clarified by now. I should like to take up in Document NO-127 the further conception of what you stated there. You write:

"This time 150 persons will be used for the vaccination and 50 for the control inoculation."

Then, you also write that illnesses must be expected. Now, what do you mean? The prosecution understands under the concept "control inoculation" persons who were not vaccinated and were then given the disease so that they could be compared with the persons who had received vaccinations. Tell us whether you used the term "control persons", let us say, in the same way as Ding used it. Tell us just what you did mean by the term "control persons" and what your plans were?

A. First of all, let me say that this was only a plan and that vac-

cination was never actually carried out. I intended the following: I wanted to vaccinate two groups of 150 persons twice in the normal way, namely, by intramuscular injection. This group, after a lapse of four weeks, was to be given a subsequent vaccination through scarification, such as is carried out in smallpox vaccination and which I explained yesterday. This scarification was to be a third inoculation to test the immunizing effect on the first two, as I also described yesterday. Now, the control group for this was to have a single vaccination, using the scarifying method. This would have made it possible to test the scarification reactions of those who received the third subsequent vaccination with the results of those who received only the single scarification vaccination. Thus, when I speak of the group of non-vaccinated persons, I am speaking of this latter group, namely, the people who received only one vaccination with the scarification method, those who had received no previous vaccination, so we would have to count on the reaction to the vaccination.

This is what I mean when I say here in this document that we must count on sickness. These sicknesses I refer to are, of course, the reactions to the vaccinations, but, of course, they are not any such thing as a manifest typhus disease itself, which of course our attenuated vaccine could not produce.

Q. Witness, you just told us this sickness referred to was a reaction to the vaccine, in other words, a fever, headaches, fatigue, etc, such symptoms as are well-known to everyone who has been vaccinated. Then, why do you speak of sickness at all in this letter, if these are simply the reactions that are to be expected from the vaccination?

A. My letter was probably read only by laymen, who would probably have no idea what the term "reaction to vaccines" meant. It was therefore easier to speak of sickness. Moreover, these prisoners were being used for work and were not to be kept away from work any longer than was absolutely necessary. Since I did not have enough experience with vaccination by scarification, I did speak of the possibility of such a reaction

in order to be absolutely covered. Since the inoculations did not take place, we do not, of course, know whether there would have been such reactions.

Q. Professor, if I understand you correctly, the anti-infectious effect of your vaccine was tested by you, in the way you have just described, in the course of your first vaccinations in December of 1943 and January of 1944 in Natzweiler. Was this planning that is described in Document NO-127 essentially different from the work that you had previously carried on in Natzweiler?

A. There was no fundamental difference; the only difference was that the vaccine had been stored away for a longer time in the second case, so that we anticipated that the vaccine would have matured further; thus we could expect a further reduction in the reaction to the vaccine, but it could be proved only in practice to what extent this would actually be the case. This again was a testing of the tolerability of the vaccine.

Q. Do I understand you to say that these plans were never put into effect and that in January of 1944 was the last time you carried out inoculations in Natzweiler?

A. Yes, no further vaccinations were carried out in Natzweiler.

Q. Now I shall have to turn back to the testimony of the witness Edith Schmidt. On 9 January 1947, page 1378 of the English transcript, Edith Schmidt said that your vaccinations in Natzweiler were continued until July of 1944. Now, did you make many trips to Natzweiler in the summer of 1944?

A. Yes, I was in Natzweiler several times during the epidemic in the summer of 1944. I went to the camp at irregular intervals to assist the doctors who were combatting the epidemic there, which had reached considerable proportions. I did so to deliver the delousing apparatus, which has already been mentioned, but no vaccinations were being administered at that time. That was prevented by, among other things,

the fact that I had many military duties and as consulting hygienist simply was not in a position to spend the time carrying on observations in Natzweiler. Therefore I had no time to carry out inoculations.

Q. But, Professor, Fraulein Schmidt said that you went to Natzweiler with all your material and from this she drew the conclusion that further inoculations were carried out.

A. It is true that in my trips to Natzweiler I took material with me. These were packages of phenol which were to serve for the sterile extraction of blood for the Weil-Felix reaction. This test was carried out by us during the course of the epidemic. The doctors at the camp had no test tubes and no sterile apparatus for taking blood tests, and that is why I took this material with me, and this is the material that Miss Schmidt saw me taking along, although it bore no direct relationship to the typhus laboratory.

DR. TIPP: May it please Your Honors, the witness Schmidt herself said during her testimony that she merely concluded that the inoculations were continued at Natzweiler, but she did not say that she had any knowledge of her own on this fact.

BY DR. TIPP:

Q. One question that arises from your testimony yesterday, witness. You said that you had no virus strain in Strassbourg that was pathogenic for human beings. Where did you get your Rickettsia strain of lice typhus with which you manufactured your vaccine?

A. This lice typhus strain was a virus sent us by Professor Giroud from the Institut Pasteur in Paris; this typhus virus had gone through several animal passages and it was sent to us in this form from Paris. This was the only laboratory strain that we had.

Q. Professor, wouldn't it have been very easy, or at least a layman imagines this to be so, to breed a strain pathogenic for human beings, or can that not be done so easily in the laboratory?

A. Well, perhaps the layman thinks it is very easy to obtain a strain pathogenic for human beings, but we know from literature that this doesn't seem to be quite so easy. If one wishes to have such a strain, then one must catch the infected persons at a very early stage.

Q. Professor, you are using the term "infected persons". What do you mean by that? Do you mean real, actual cases of typhus, or do you mean artificially infected persons?

A. I mean natural cases of actual typhus. As I was saying, in

general one does not know when the actual infection began. The infected person reaches the clinic only after the disease has progressed into a relatively late stage. At this point in the course of the disease, unfortunately, the Rickettsia virus is no longer in the blood but has already taken up its residence in the tissue. Thus an extraction of blood and passage through animals succeed in only a very small percentage of the cases, and only in early cases. Thus you will see that transmission is not so easy and does not always achieve its goal. A really successful transmission to animals - this we also know from literature - can usually be done only if a human being is used so that the virus is passed through the human organism first. In other words, it isn't so easy.

Q. Then I can sum up as follows: You had no strain pathogenic for human beings. Further, neither in Natzweiler nor in Schirmek did you carry out experiments in which you infected prisoners with a living virulent virus that was pathogenic for human beings. You simply used your living, that is to say, virulent, virus in Schirmek and Natzweiler for purposes of protective vaccination. Furthermore, you said that the experimental aspects of your work consisted in testing the tolerability of the vaccine and that you collected further data for the study of typhus vaccine production, is that correct?

A. Yes.

Q. Now, Professor, I turn to the next point, namely, the research assignments that you received. At the very beginning of your testimony you said that your typhus research rested on your own initiative and that to receive aid, particularly financial aid, in this research you applied for research assignments, is that correct?

A. Yes, it is.

Q. Would you please tell us again from whom you received these assignments?

A. Some of them I received from the Reich Research Council, others from the Medical Inspectorate of the Luftwaffe.

Q. Perhaps we had better turn back to Document NO-137, Document

Book 12, page 76. This is your application to the rector of the Reich University Strassbourg, 7 October 1943, in which you ask that your institute be accepted as a military installation. Will you please take a look at this document and tell us how it came about?

A. This application is based on a circular letter sent out by the Reich Ministry of Education to the rectors of all the universities. In this circular letter we were asked to state whether our institutes were militarily necessary, to decide whether or not we should receive corresponding assistance. Here is an application for a research assignment under No. 2 here from the Luftwaffe Medical Inspectorate, namely, a research assignment in typhus vaccines. No. 4 is another typhus application. It was issued by the Reich Research Council. Again the subject is typhus, and this is a purely research assignment.

Q. Professor, one question about this last point. This application of the Reich Research Council bears the note "top secret". Why is this top secret?

A. That I can't tell you, but I assume that during the war such themes were handled as top secret and were given preference in terms of priority of raw materials, and so forth. I can't give any other reason. They received a very high priority rating.

Q. Then you don't think, Professor, that there were any reasons for maintaining secrecy in this matter?

A. No, I don't, and that can be seen from the fact that the results of this work were subsequently published.

Q. I am, of course, particularly interested in No. 2, the assignment you received from the Medical Inspectorate of the Luftwaffe. Tell me, Professor, which Referat of the Medical Inspectorate took care of the typhus assignments, and with whom did you carry on negotiations?

A. The Hygiene Referat was the one I negotiated with. This was the Referat that concerned itself with virus questions. I negotiated first of all with Professor Rose, as he has said several times, then with Dr. Atmer. He was the Referent for Hygiene. And then I spoke with

the man in charge of the funds, Amarat Grinzel.

Q. You said that you negotiated with Rose as consulting hygienist and with Atmer as the competent Referent. However, as you can see from this document, the research assignments all bear the file number 55, and also the Referat number 2 II B. These are the numbers of the Referat for aviation medicine. Consequently the prosecution has assumed that Dr. Becker-Freyseng had something to do with the giving of these assignments, because he was the competent Referent in the Referat of which this is the file note. What do you have to say about that?

A. As scientist and consulting hygienist I really concerned myself very little with file notes and such matters. Consequently I cannot give you any really satisfactory information on this point. I do know that the file note 55 always meant research, because it always appeared on research assignments. And I do know that all applications for research were worked on by the Referat for Aviation Medicine. But since I didn't belong to this agency, I didn't concern myself with the red tape that went on inside the Medical Inspectorate. I simply went to Mr. Atmer or to Professor Rose if I wanted their support.

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Q Professor the Prosecution has asserted that you received orders from Dr. Becker-Freyseng, to carry out your research assignments. Did you?

A No, I never received an order. I can't imagine how such an order or even instructions for scientific work could have been worded. I don't think that any of the gentlemen there had such insight into this work as to have enabled them to give me any instructions. In addition, research cannot be directed according to orders or directives, because the path that is to be taken is precisely what the research man is trying to find out.

Q Then, Professor, I understand you to say that you received no orders from the Medical Inspectorate in this direction. Was your work supervised by the Medical Inspectorate or, more specifically, were you checked on in detail in the course of your work by the Medical Inspectorate?

A You cannot speak of any such thing as supervision or checking on my work. They did not have thorough enough knowledge. Of course, the gentlemen in the Medical Inspectorate were interested in the progress the work was making, and I spoke about it with several gentlemen, for example Professor Rose, as he himself has said.

Q Well, Dr. Becker-Freyseng said here on the stand that he visited you once in your Institute in Strassbourg in July 1944. This visit has been touched on briefly during your testimony. May I ask you now when you first made Dr. Becker-Freyseng's acquaintance?

A I had heard of Dr. Becker-Freyseng and knew that he was subordinate to Professor Anthony in the Referat for Aviation Medicine. I made his personal acquaintance on a trip from Heidelberg to Freiburg im Breisgau, in June or May of 1944, and then Dr. Becker-Freyseng visited me the end of July 1944, at Professor Schroeder's suggestion, in order to discuss with me the problem of acquiring experimental animals. He was to find out my specific wishes in this matter, because at that time he was in

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charge of acquiring experimental animals in the Medical Inspectorate Dr. Becker-Freyseng had connections with Dr. Suchalla, who was breeding animals on a large scale, and he wanted to mobilize this man's energies for me. This, however was not done in Strassbourg, but Dr. Suchalla visited me in Oberschreibergau, where we discussed setting up the necessary apparatus for breeding and where he promised to provide me with the necessary animals. Dr. Suchalla visited me then, because Dr. Becker-Freyseng could not give him any full satisfactory information about my needs and requirements.

Q You also mentioned a visit by Professor Schroeder. Can you tell us when this visit was?

A At the end of May 1944, Schroeder visited me in Strassbourg and spent a few hours with me in the Hygienic Institute.

Q Perhaps you could tell us what happened during this visit?

A It went in the way any visit from a high military chief would take place. I showed him through the Institute, particularly the animal section, which interested him greatly; then we had a conversation in very general terms that concerned itself with my scientific work.

Q At these visits from Dr. Becker-Freyseng and Prof. Schroeder, was there mention of the fact that you had carried out or intended to carry out experiments in Katzweiler or Schirmek?

A No, I don't think so. At least I can't remember any mention of that.

Q Now, Professor, regarding these research assignments, you said that you received no orders as to how the assignments were to be carried out - you received no commands or directives. You said that they were not supervised and that you spoke neither with Dr. Becker-Freyseng or Professor Schroeder about details, such as the vaccinations in Katzweiler or Schirmek. How to return to the research assignments. Undoubtedly you reported on them, didn't you?

A Yes. It was, I believe prescribed that every quarter or semi-annually a report was to be sent in on the progress that one's research was

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making. I was very irregular in meeting this requirement, which is quite understandable because one cannot procedure results, at any prescribed date, of the sort that one can report on. Now and then I did send interim reports to the Medical Inspectorate, but I did not abide by that directive very often. It was, for purely factual reasons, impossible to give reports on specified dates.

Q Can you tell us what the contents of these interim reports were?

A In general, leaving out all the details, we described the progress the work was making. My reports were sent in, first of all, when I was specifically asked to send in a report; or secondly, when I had used up all my funds and had to give some reason for wishing additional funds. These reports were much the same in form as the one here to the Reich Research Council. In other words, they were very general in form.

Q Witness, the Prosecution has asserted that from your interim reports the fact could be seen that the inoculations, or the experiments, as the Prosecution calls them, were carried out on prisoners. Did you mention any specific details in your interim reports?

A In these interim reports I certainly did not mention any specific details, if only for the reason that no researcher gives information on his plans and results before the work is concluded. The only thing that could interest the Medical Inspectorate in this matter was when I could begin large-scale manufacture of the vaccine, and it was not necessary to go into details in order to give them this information.

Q Professor, none of your interim reports to the Medical Inspectorate are here in evidence. However, there are many documents referring to your typhus research as such. We want to go through these documents to find out whether there is anything in them that you carried out experiments on human beings. You wrote to Hirt, as we have already seen, but we can ignore that because that does not concern the Medical Inspectorate. Do you agree with me?

A Yes. That is true. What I sent to Hirt was copies of letters I had sent elsewhere.

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Q Then, witness, please turn in Document Book 12 to page 86. This is a letter from you of the 27th of April 1944, to the Reich Minister of Aviation and Commander in Chief of the Luftwaffe-L-in 14-in other words, to the Medical Inspectorate. This is Document NO-302, Exhibit 302. This document is pretty long, Professor; perhaps you could just tell us briefly what it is about and specifically tell us whether there is any indication in this document that you inoculated prisoners experimented on human beings.

A I have this document before me. It is simply an opinion on a vaccine production by a firm. This letter mentioned here of 8 January 1944, does not seem to be here, nor can I remember what it said, but it can be seen from this document here what the subject must have been. I was asked to test this vaccine because there were doubts as to its efficacy. This vaccine was a killed virulent from the Behring Works. On contrast to the vaccine of Koch, Gildemeister, and myself, this vaccine used not only the irtelline sac but---

Q Witness, I don't think the details are of interest to the Tribunal. This, then was a vaccine manufactured by somebody else, the Behring Works, and you were to test it. Now, how were you to test it and how did you test it?

A.- The testing was carried out in the laboratory. It was ascertained microscopically whether the vaccine manufactured by the Behring works contained more or less Rickettsias than the vaccine made according to our specifications.

Q.- I believe that is enough for this point. Then the testing was carried out in the laboratory?

A.- Yes, in the laboratory and with the aid of a microscope.

Q.- And the result of this test is set down here in this letter?

A.- Yes.

Q.- Then this letter has nothing to do with any inoculations or experiments?

A.- Nothing at all.

Q.- Then let's turn to page 96, the next document, Document NO-131, Exhibit 309, a letter of 29 August 1944, Saalow, from the High Command of the Luftwaffe. It bears the file number 55 and the Referat notation "2IIB". It is addressed primarily to you. It refers to a letter of 21 June 1944 from you. Can you recall what that letter had in it? It was not offered in evidence.

A.- No, I can't, but from this letter here I can more or less reconstruct what it must have been. I assume from this, as can be seen from Number I, that I am requesting additional funds for typhus research. When so doing, as I have said, I always sent in brief reports on my work. I gather from paragraph 2 and 4 that I wrote that my work was proceeding satisfactorily that the vaccine had already been tested in practice and had proved its efficacy, namely, in Natzweiler in the summer of 1944 during the epidemic there. I mention this because during that epidemic our vaccine had proved itself.

Q.- Then there is discussion of setting up a manufactory for vaccine, and you have already said that you intended to undertake this manufactory in your institute at the request of the medical Inspectorate.

I believe that we can skip that point now, but I am afraid I have to bother you again about this file number. Again we have the file number 55, and this time the Referat additional notation "2IIA."

THE PRESIDENT: Counsel, when you read that series of numbers before you read "2IIB." On the Tribunal's copy it is "2IIA."

DR. TIPP: This document, Your Honor, bears the notation "2IIA" whereas the former document bore the number "2IIB". NO-131 has the number —

THE PRESIDENT: The translation seems to be "B."

INTERPRETER: My fault, your Honor.

BY DR. TIPP:

Q.- From this file notation, witness, the Prosecution has drawn the conclusion that all the contents of this letter, numbers 1 to 4 were worked on by Dr. Becker-Freyseng, the Referent for Aviation Medicine. What do you have to say to that?

A.- To that I can only say that this was a hygiene matter and, in my opinion, must have been worked on by the Referent for Hygiene; namely Atzer, or at best by the consulting hygienist, Prof. Rose.

Q.- The Prosecution lays great weight on paragraph IV in this document. This paragraph reads, and I quote: "The report of 21 June 1944 in which the investigations at Katzeiler are mentioned should have been sent as secret." From this the Prosecution draws the conclusion that in your letter of 21 June 1944 there must have been some mention of experiments or inoculations in the concentration camp of Katzeiler. Can you explain that, witness?

A.- This report dealt with a typhus epidemic, as you can see from paragraph III in this letter, and typhus epidemics in any camp were to be reported on as secret. That was a general directive.

Q.- Then, witness, you say that this request for secrecy has nothing to do with any experiments in a concentration camp.

A.- No, as I said, the fact that there was a typhus epidemic in

the camp was enough reason for having the matter kept secret.

Q.- Now, witness, let's turn to Document NO-132 on the next page of the document book, a letter from you dated 19 September 1944, to the High Command of the Luftwaffe, Chief of the Medical Service. The reference is the document we just discussed, namely, NO-131. This, then, is your reply to that letter. Who in the Medical Inspectorate received letters of this sort?

A.- This again is a hygiene matter, and I know for certain that these were handled either by Dr. Atner, who was the Referent for Hygiene, or by Prof. Rose, the Consulting Hygienist.

Q.- Now, witness, in conclusion, regarding these two documents, you said that this typhus epidemic and thus also your investigations were carried out in the concentration camp of Patzweiler, but here in Document NO-132, you speak of the camp as such.

A.- That is to be traced back to my duty to maintain secrecy. I could not give precise details.

Q.- In other words, you didn't mention the fact that Patzweiler was a concentration camp?

A.- No. I did not.

Q.- That concludes the discussion of the interim reports, and now I shall turn to your final reports. What sort of reports did you have to turn in when a piece of work was finished?

THE PRESIDENT: Counsel, how long will your further examination of this witness continue?

DR. TIPP: I think I shall be done by the intermission.

THE PRESIDENT: You mean you estimate fifteen minutes further? The Tribunal will now be in recess for a few minutes.

(Thereupon a recess was taken.)

THE MARSHAL: The Tribunal is again in session.

May it please your Honors, the defendant Perkorny having been excused by the Tribunal yesterday is now absent from the Court.

THE PRESIDENT: The Secretary General will note the absence of the defendant Perkorny pursuant to excuse by the Court on request of his counsel.

The Tribunal now desires to announce that the Tribunal will be in session all day Saturday of this week. Some time ago the Tribunal made an estimate of the time that would be necessary to finish the taking of testimony in this case. That estimate has now been exceeded and the end is not yet. The Prosecution informs us that they have five more witnesses to call in rebuttal, and the Tribunal, while feeling it necessary to expedite the taking of testimony, and while not desiring to hamper either the Prosecution or the Defense, the Tribunal will hear the witnesses who are offered, but it may even be necessary due to circumstances beyond anyone's control that the Tribunal will even proceed to hold night sessions, but in any event the Tribunal will be in session all day Saturday of this week for the usual hours, and preparations will be made to have luncheon served in the Courthouse as usual on ordinary court days.

Counsel may proceed.

BY MR. TIPP:

Q.- Professor, we come now to your final reports. In what form did you make these final reports?

A.- I did not submit any specific final reports, but when the results seemed to be worth publication I submitted a manuscript for approval, and the contents of the manuscript were at the same time the final report.

Q.- And how many manuscripts, that is, how many final reports were submitted by you, Professor?

A.- As far as the typhus work was concerned, two manuscripts of that kind were submitted as final reports, one was published subsequently, that is, at the beginning of 1944, the other study, which concerned vaccinations with the louse vaccine, was published at the end of 1944.

Q.- And where were your papers published, Professor?

A.- "Zentralblatt fuer Pathologie." (The Central Journal for Pathology).

Q.- These papers have not yet been submitted in this trial, only various documents referring to them, witness. First of all the document of the Prosecution WC-128, Exhibit 307, that is in Document Book No. 12 on page 95 of the English and 97 of the German book. It is the letter with the heading: "Medical Academy of the Luftwaffe" Training Group Science and Research, 7 July, 1944, and it is signed by Oberstarzt Professor Dr. Luxenburger, witness, from that document I should like to discuss merely one point with you, and that is the following: It is mentioned here, about the middle of the page, that one has to compare the results of vaccines with the average fever charts of the experimental on the one hand and the control persons on the other hand. May I ask you to tell us, you know the contents of your papers, what control persons are referred to in connection with that work?

A That study contains the results of vaccination with a living virus, and the most essential point was the fever charts were attached to these manuscripts originally. They are charts of average figures which later, for reasons of saving space, had to be omitted. I should like to emphasize in this connection that the original author, the man who wrote this paper, put inoculation and infection on the same level.

Professor Rose has also already spoken about that point in detail. As far as the central subjects mentioned are concerned, that is the one group of vaccinees who were only treated with the sacrification method. I believe that is about the most important thing I want to mention in that connection.

Q Now, witness, the main points in this connection could be seen from your study - that your vaccinations or experiments as we can read from this document were carried on in a concentration camp and on concentration camp inmates.

A No, of concentration camps nothing was said here. The vaccinations, as I have said, were in connection with a typhus epidemic in a concentration camp, and there was a duty to keep such matters secret, as I have already pointed out. I may also refer to my publication where I mentioned vaccination in a unit in order to act according to instructions.

Q The fact, therefore, that you had made vaccinations in concentration camps could not be seen from this study?

A That could not be seen from it.

Q Witness, then there is another document from which it can be seen that the Reichsfuehrer-SS, the SS Wirtschafts-Verwaltung s-Hauptamt and, also the Institute for Military Scientific Research was to be mentioned in this study. That remark is in Document NO - 129, Exhibit 308, page 97 of the English and 98 of the German Document Book. That remark might lead the reader of that study to believe that

your research was in some connection with the SS or the administration of concentration camps. Let me ask you, did your work, your study, have that notation already when it was submitted for approval for publication?

A No, that can be seen beyond doubt from the dates. Document 128, which contains approval for publication of my study, was dated 7 July 1944, whereas the document just mentioned, where that passage can be found, dates from 10 July 1944. So that that footnote was added later because one couldn't help but comply with that request.

Q In summarizing, Professor, may I say, therefore, that interim reports were made only at irregular intervals and did not contain any details regarding your work? Your final reports consisted in submission of scientific studies designed for publication? And from neither kind of report could one see that your work was conducted in a concentration camp, is that correct?

A Yes, that is correct.

Q Now, unfortunately, concerning these reports I have to put to you a witness testimony which does not entirely agree with your statement. That is the testimony of the witness Olga Eyer who was examined on 15 January 1947. Her testimony is on page 1761 of the German and 1759 of the English transcript. Could you tell us first what the position of Fraulein Eyer was in your institute?

A Fraulein Eyer, as I have already said, was my secretary in the Hygienic Institute at Strassbourg and was entrusted with the care of my correspondence based on stenographic notes, as is usually the case. She sat in the anteroom before my office.

Q That witness said here, Professor, that on your experiments at Natzweiler quarterly reports were sent to the Medical Inspectorate. She furthermore stated that from what could be seen from these reports fifty prisoners had been vaccinated with virulent typhus virus. Can you say any more, or tell us with whom you had correspondence by way of reports, etc.

A I had to send reports only on my research assignments and that, as I have mentioned before, to the Reich Research Council and the Medical Inspectorate of the Luftwaffe. These were reports which I made in my capacity as a research man or Director of the Hygienic Institute.

Then I also had to submit reports, beginning with the middle of 1943 particularly, in my capacity as Consulting Hygienist, to the Air Fleet Physician and those, as I have said already, were mostly reports on experiences which were passed on to the Medical Inspectorate. My correspondence, as you can imagine, was very extensive and it may be assumed that in fact every three months a report of some sort or other was made, either to the Medical Inspectorate or to the Reich Research Council. Considering the large number of assignments I had that was quite possible, but it is not correct that regularly every three months I reported to the Medical Inspectorate about vaccinations, because that was hardly possible, since altogether vaccinations were administered only twice -- in May 1943 and in the winter, that is December 1943 to January 1944. It is incorrect that from any report it could have been seen that I had inoculated fifty prisoners with virulent typhus virus. The witness Eyer no doubt refers to the document previously discussed here, where I requested another 200 prisoners for vaccination, and where I mentioned the fifty control persons. That letter I dictated to her. I have also discussed that here already. The witness apparently from this request drew the conclusion which she presented here.

Q Professor, the witness furthermore told us that from your report it appeared quite obvious that these experiments had been conducted on human beings, specifically on inmates of concentration camps. Could you say anything about that?

A Yes, I have already elucidated this point, and reports are available; if the witness mentions my letter to Hirt, she is right, but I have to object to the expression "experiments on human beings"

in the sense which is understood in this trial. As far as reports to the Medical Inspectorate and the Reich Research Council go she is mistaken, or her recollection is not quite correct.

Q You mean to say, Professor, that the witness confused your letter to Hirt with the reports to the Medical Inspectorate and the Reich Research Council?

A Yes, I could not think of another explanation -- that must be a mistake.

Q In this connection may I refer the Tribunal to the fact that the witness Eyer in cross-examination -- on page 1770 of the English transcript -- was forced to withdraw in part her statement made in direct examination. She had to admit once that she did not understand much about the contents of these reports because she was not a specialist in that field. And she furthermore had to admit that as far as the contents of the report to the Medical Inspectorate are concerned she may have been mistaken, that she did not have exact knowledge about that.

Professor, there are two more points to clear up. First, your connection with Professor Hirt. You have already, if we may say so, explained what kind of correspondence you had with Dr. Hirt. Were you in any relation to Hirt? Did you work together with him in a scientific field? Did you participate in Hirt's experiments at Natzweiler?

A I can say the following. Professor Hirt and myself were faculty colleagues. And our relations were of course those of colleagues. He was the expert on anatomy at the University of Strassbourg and I was the hygienist. That already shows that our fields of work were entirely different.

No close cooperation on any scientific or any similar field ever took place with Professor Hirt. In particular, we never made any scientific studies together at Natzweiler.

Q Then you were at no time an assistant of Professor Hirt in his work, as the Prosecution alleges?

A. No, I was never an assistant of Hirt.

Q. The last point which still needs to be clarified is the question of the vaccinees, or, as the Prosecution calls them, the experimental subjects. You told us that the vaccinees were members of various nationalities. Now, we have had three witnesses here who said literally the same thing; that is to say, that these vaccinations in Schirmeck were made only on Poles. That was stated by the witness Eyer, as well as by the witness Hirz, and that statement is also contained in an affidavit by a Dr. Schuh of the 18th of November, 1946, and all three of these witnesses have testified that they protested to you against these experiments at Schirmeck, and the assistant at that time, Dr. Graefe, had stated that there were no misgivings against this work because the experiments would not be conducted on human beings but on Poles. Could you say anything about the assertions of these three witnesses?

A. It seems to me quite impossible that these three people, at the same time or one at a time allegedly protested to me in almost the same words. I am of the opinion that the statements of these three witnesses were, in fact, put in their mouths for obvious reasons. A protest of that kind was never expressed to me, and I have never made a statement in such poor taste; that Poles were not human beings. I consider it quite impossible that Dr. Graefe said anything similar.

Q. The last question, witness, that is concerning the experimental subjects. That is to say, the vaccinees. You told us that your vaccinees at Schirmeck were not volunteers. May I ask you, were your vaccinees at Natzweiler volunteers, and if they were not volunteers, why did you believe that you could waive the principle of their being volunteers?

A. In this case may I again refer to what I have described briefly before. The vaccinees were not volunteers. They were selected by the camp command, and the only influence I had in their selection

was that I could stress the medical points of view. That is to say, whether the persons selected to be vaccinated were healthy enough and whether their physical condition was such that they could be used for vaccinations, because other people I did not want, I could not use, and I was not supposed to use for vaccinations. As I have already explained, these were protective vaccinations which, first of all, were to protect the vaccinees themselves, and then also protect the rest of the inmates, and, in case of an epidemic, if the camp could have been vaccinated to a large extent it would have been a great advantage to the entire population, because you know that typhus is a highly contagious disease and hard to combat. These inoculations which were made within the scope of vaccinations which had already been ordered. There were many decrees in the German armed forces as well as with the civilian health offices that, in case of danger of an epidemic, a general vaccination should be carried out against that particular disease, and for the concentration camps there existed a special decree that, in case of danger of typhus epidemic, all inmates were to be vaccinated. These were the legal foundations which made these vaccinations possible. Furthermore, these were no longer experiments, but the practical introduction of a vaccine which already had been tested, within the scope of a general vaccination program. Besides, I should like to state that each inmate knew what danger typhus represented for his own life, and he certainly knew what grave consequences typhus would bring about for him personally. Therefore, had we asked the inmates whether they would volunteer for the vaccination, I am sure that we would have got not only the number required, but many more, but I did not have any more vaccine at my disposal. I believe also that in the face of the danger they would have accepted the reactions that I described. Furthermore, I conducted my vaccinations with the active assistance of the inmate physicians, and I am quite sure that they could have resisted the vaccinations if it had been some criminal undertaking; there were two inmate

physicians of whom I can say that they certainly had high ethical standards. One was a Professor Paulsen from Oslo. In summary of all the statements I have made about my work which are called experiments here, I may say: If this work is considered a criminal undertaking, then that can only have been due to lack of specific knowledge and ignorance of the true facts; once these questions have all been clarified, this assertion can no longer be maintained. I am firmly convinced that, on the basis of my statements, the true can be separated from the false, the good from the evil, and if I may say so, true science from false science; I, have attempted, in the twenty-five years of my being as scientist, to serve scientific truth only.

Q. I thank you.

Mr. President, I have no further questions to this witness.

THE PRESIDENT: Dr. Fritz for the defendant Rose may examine the witness.

BY DR. FRITZ (Defense counsel for the defendant Rose):

Q. Professor, due to the very detailed examination by my colleague, Dr. Tipp, a large portion of the questions which I intended to put to you are no longer necessary. Therefore, I should like to put only those questions to you which I have to put to you in the interests of my client, Dr. Rose.

When you were examined by Dr. Tipp, Professor, you stated that Professor visited you in Strassbourg in 1943. Was he frequently in Strassbourg?

A. Professor Rose was in Strassbourg once more. That was in the summer of 1944 or the spring of 1944.

Q. No further visits by Professor Rose took place?

A. No, no further visits took place.

Q. You mentioned in your direct examination the report -- that is Document NO. 138, which is on page 84 of the document book #12 of the Prosecution.

A. 84?

C. In the German Document Book, 82 in the English Document Book, Your Honor.

The report of the 21st of January 1944 to the President of the Reich Research Council. I have only one question concerning this report - whether it was also sent to the Medical Inspectorate of the Luftwaffe or to Professor Rose?

A. No, I do not recall that. That was a report which, in no way, concerned the Medical Inspectorate, only the Reich Research Council.

C. Now, to come to another subject, Professor.

If you, according to your statement, did not carry out any infection with typhus virus pathogenic to humans, then, as a typhus specialist, you certainly know that such experiments were carried out. Part of the Indictment, for example, deals with experiments of that kind at Buchenwald. Were these Buchenwald experiments, of which you must know through the publication by Dr. Ding in the Journal for Hygiene and Infectious Diseases, the first of this kind in typhus research?

A. No, prior to that similar studies had been made. I believe I mentioned at least one study by the French scientist, Blanc, and in medical literature there are quite a number of articles concerning artificial infection of human beings. If you are interested, I may tell you the more important ones.

A. Yes, please do, Professor.

C. There are two groups of studies. One, with the sole purpose, by artificial infection of human beings, to determine how the transmission of typhus takes place. They started a long time ago -- these studies. The other group is the one where vaccinations took place and then the immunizing effect of these vaccinations was tested by subsequent infection with a virus pathogenic to humans. Of course, my list of medical literature is not complete. One may say there are several classical studies here. One by Jersin and Vassile. Vassile was one of the discoverers of the plague germ.

Q Excuse me, Professor, may I ask you to distinguish between these two groups I have just mentioned?

A Yes, yes. I will just speak about those made with artificial infections. One is from 1906 made by the two Frenchmen, where they tried transfer by human blood and even undertook a human passage. First an Indo-Chinese Coolie was infected with typhus blood, and as he became sick, his blood was transferred to a healthy person, and both became sick. If you are interested in the data of the literature, I can state them, but I think we can leave that out if you agree.

Then we have a second study by Otero from Mexico, who also infected a person by transferring typhus blood, and the person fell ill after eleven days. That study is from the year 1907.

Then there is a study by Sergeant Folli, and Violetta, which is concerned with the transfer of the disease by lice; infected lice were placed on healthy persons, or the crushed lice were injected into human beings in Algeria, and typhus was caused.

There is also a study by Voitano, who made the transfer by dog ticks, and another study by a Turkish Doctor, who used many experimental subjects and transferred the disease by transfer of the blood from diseased persons to healthy ones; he had quite a number of fatalities. Altogether 310 persons were infected with 174 cases of disease and 49 fatalities.

Then there is also an English study by Mitchell and Richardson, who also infected with typhus blood. Then a study by McCalla and Breritton, that is an American study, where the purpose was to determine the contagion of Rocky Mountain spotted fever by ticks. Rocky Mountain spotted fever is a variety of typhus.

The other study is to be mentioned by Sparrow and Lumbroso, who infected human beings by using infected brains of guinea pigs, but it only came to a mild disease.

They are the studies which are based on the artificial infection of human beings by pathogenic material. Then, in answering your ques-

tion, the subject of subsequent infections after protective vaccination, there are various studies here, too. I shall only mention the most important ones. In Mexico, a study by Sanchez Casco in 1932, who first vaccinated and then subsequently infected with a murine typhus virus; of eleven subjects so vaccinated, three fell ill with typical typhus. This author then states that three persons who had not previously been vaccinated were infected as control subjects, of whom only two fell ill.

Then there is the study by Ventenillas from 1939; here also, vaccinations were first carried out and then an infection was brought about with typhus rickettsia. Here also it came to an outbreak of the disease. Finally there is to be mentioned a study by Blanc and Baltazard, who inoculated several persons with a virus mixed with gall and thus attenuated. Subsequently they were infected with pathogenic virus to determine the degree of immunity. Non-vaccinated control persons were also infected.

Then there is another study to be mentioned, which belongs in the first group, either by Blanc or Baltazard, one or the other, I cannot say at the moment which one of the two. They also carried out a pure infection on four or five paralytics. These are all the studies I know on the subject.

Then, concerning the question itself, the question of the experiments at Buchenwald,

Q Well, Professor, I am interested to know whether you as an expert can answer the question as to whether the experiments of Ding had any importance for the development of vaccines in the field of typhus research?

A If I am to answer this question as an expert, then since these experiments are known, I would say the following. These comparative studies about the immunizing effect of various commercial killed typhus viruses had great practical value, because they made it possible to eliminate vaccines which are not effective, and doubtless by

eliminating these less effective vaccines, many lives were doubtless saved in typhus epidemics. These experiments confirmed the experience made in practice that with attenuated virus no anti-infectious effect could be achieved, but that the disease was merely made milder and fatalities reduced. That is about the answer I would give in making a statement as an expert.

Q The final report then, did it also show the importance of the research work that you carried on in Strassbourg; that is that the use of killed virus would not protect against infection?

A Yes, that is true, we made that observation during the war.

Q Then, again I have to refer to your relations with Professor Rose and to ask you, were you ever in any form subordinate to the Consulting Hygienist of the Chief of the Medical Service of the Luftwaffe, that is to say, Professor Rose?

A I was never subordinate in a military way to Professor Rose, who was Consulting Hygienist with the chief of the Medical Service. My office was an entirely different one. I was Consulting Hygienist with the Air Fleet Physician. That was my superior from the military point of view.

Q Did you have to report to Professor Rose immediately; that is to say about your work as consultant or your work in carrying out research assignments?

A My reports as consultant went to the Air Fleet Physician, as I have mentioned already, and then through channels to the Inspectorate. A direct report could not take place, because there was no subordination. Also as far as my scientific and research work was concerned there was no relation as between the subordinate and superior in any way.

Q Then, may I assume that Professor Rose did not have to supervise the manner in which your research was carried out?

A No, he did not have to do that in any manner.

Q Was there frequent correspondence between you and Professor

Rose?

A No, it was not very extensive; I can remember possibly five or six letters.

Q And that infrequent correspondence, as you may call it, was that of an official or a scientific nature?

A Well, it did not have an official nature; it was correspondence, I should like to say, between colleagues engaged in the same profession where matters of the same profession are discussed. That can be seen from the documents at hand.

Q Did Professor Rose at any time visit the camps at Natzweiler and Schirmeck?

A Professor Rose was never in Schirmeck or Natzweiler with me, and I never heard that he had ever been at either of these camps.

Q One last question, Professor, which I should like you to answer in your capacity as a bacteriologist, because you have worked in that capacity for decades in this country and abroad; what do you know about international customs in cases where vaccines, germs, or disease carriers are transmitted?

A It has always been the custom that institutes, government agencies and recognized scientists exchanged bacteriological materials -- which includes vaccines. On request the vaccine or bacteriological material was supplied free of cost, without inquiring what it was needed for, because one had to assume that scientific work was being carried out on which the person concerned would not give any information. It was the general practice for us in Germany to get material from America, England, France, Sweden, etc. Even during the war I received highly infectious material from France and Sweden -- from Sweden, for example, poliomyelitis virus, that is, infantile paralysis.

Q. Is it true, Professor, that a person who sends such material by sending it does not assume any responsibility for the type of work which the recipient carries out with that material?

A. That is correct, because if I send material from my institute to a reputable institute or scientist, the minute the material leaves my office and the other receives it I do not assume further responsibility for it.

DR. FRITZ: Thank you. Your Honor, I have no further questions.

THE PRESIDENT: If Dr. Nelte on behalf of the defendant Handloser has some questions he may proceed.

BY DR. NELTE:

Q. In the direct examination you have already told us that if in the fields of your research you had any requests to make you turned to the Reich Research Council or the Chief of the Medical Service of the Luftwaffe. Furthermore, you have stated, and I believe I do not have to put that in the form of a question, that reports on these experiments were sent by you to those offices from which you had received research assignments. Is that correct?

A. Yes, that is correct.

Q. In supplementing the questions concerning Professor Handloser, I should like to ask you, did you ever receive a research assignment from Professor Handloser as Chief of the Wehrmacht Medical Service?

A. I never received an assignment of that kind.

Q. Did you ever send a report to the Chief of the Wehrmacht Medical service about experiments which you carried out for the Reich Research Council or the Medical Inspectorate of the Luftwaffe?

A. I believe I may say that such reports were never made, because direct reports which only concerned the Chief of the Medical Service of the Luftwaffe I could not have made to the Chief of the Wehrmacht Medical Service. That would have had to go through official channels. Reports concerning research assignments from the Reich Research Council never went to Professor Handloser.

Q. Did Professor Handloser ever inspect your institute at Strassbourg?

A. No, that was never the case.

Q. My colleague, Dr. Tipp has already referred to the statements made by the witness Eyer, and quoted "that reports on experiments were to the Medical Inspectorate of the Luftwaffe, to the Reich Research Council, as well as to an office of the Luftwaffe at Berlin-Dahlem." That statement by Fraulein Eyer is Document 883, Exhibit 320, No. u. Fr. Eyer adds literally, I quote: "I may add that I also had to send reports to the OKW." When the witness was questioned in the witness box she could not state to what office of the OKW these reports allegedly sent. Nor could she state when these reports were sent to the OKW. Therefore, I ask you, did the OKW, that is apart now from the Chief of the Wehrmacht Medical Service regularly receive copies of reports which you sent to the Reich Research Council or the Chief of the Medical Service of the Luftwaffe?

A. To the OKW, if you make that distinction, I had no connection whatsoever. There was no office where I could and should have reported. Apart from the Chief of the Wehrmacht Medical Service, and in this case I have already said that this did not occur.

Q. To the question of hepatitis you have given us sufficient answers already, but concerning hepatitis I should like to ask you, at the conference on hepatitis in June 1944 at Breslau did anyone of the lecturers report on experiments on human beings within the scope of hepatitis research?

A. There were six or seven scientific reports, and not one of the gentlemen mentioned anything about experiments on human beings. I explained yesterday that in Germany I had not heard of any experiments of that kind. That of course also applied to the Breslau conference.

Q. Would you please tell me briefly what was the purpose of the "Arbeitsring" formed at Breslau on the initiative of Professor

Schreiber?

A. The purpose of these Arbeitsring study groups was that various specialists who were interested in the question of hepatitis got together, so that by this combined work positive results could be obtained more quickly and more easily. That system had proved itself in the case of my study group. I said that I worked with four or five gentlemen together, and in this manner we progressed very far and very rapidly in the field of hepatitis research.

Q. Now, your work with Professor Dohmen, how about that, the short visit in Strasbourg, and the fact that he was not in Natzweiler; since it was already dealt with in the direct examination I believe I do not have to speak about that. On the 19 April 1944 you sent a memo to the Commander in Chief of the Luftwaffe, that is to say to the next superior officer to yourself, that is Exhibit 318, Document NO 310, which concerns the establishment of an institute to produce typhus vaccine connected with the Hygiene Institute of the University of Strasbourg; do you remember that memo and the events which lead up to it; it is in the Document Book, which you should have before you - on page 114, that is the German Document book.

A. Yes, I had already mentioned that the Luftwaffe intended to establish its own vaccine production, and that they had approached me for that purpose, with a request to establish that production site and to be in charge of it.

Q. How come the Luftwaffe was interested in the production of vaccines? You know, don't you, that the branches of the Wehrmacht could get vaccines from the main medical pool?

A. That is correct. The central distribution office for the Wehrmacht was the Central Medical Depot, but the amounts of vaccine that could be obtained were not large enough to cover the demand. Therefore there was always a shortage, and for that reason it was understandable that the Chief of the Medical Service of the Luftwaffe wanted to have an additional source, and the simplest thing, was of course, to

establish its own production as the Army had done.

Q. Therefore, the fundamental reason was the effort of the Luftwaffe to become somewhat independent as far as priority or urgency was concerned from the distribution, that came from the other source?

A. That is right, particularly since there was still additional vaccine available from the quota which the Luftwaffe received from the main medical depot.

Q. If I understood you correctly in the direct examination, and if I remember a statement made by Prof. Rose, you were of the opinion that vaccine production, as such, in principle was not to have anything to do with your proper activities. He, in your opinion, was intended to supervise the production of vaccines?

A. I have always emphasized that production is not the task of a research institute or a scientist, but that it is a matter for the vaccine industry, as for instance the Behring Works, or the Saxonian Serum Works.

Q. Then in your opinion the pharmaceutical industry was supposed to manufacture the necessary vaccines. Do you happen to know what Professor Handloser's opinion was on this point?

A. I could not tell you that. We did not happen to discuss that. I do not know it.

Q. There is another letter in Document Book 12, page 77, which has already been mentioned by my colleague Dr. Tipp. It is Document NO-306, Exhibit 296, and it is a letter from Professor Rose to you. "I have drafted a suggestion to the Inspector of the Luftwaffe on the basis of which I ask you to support the demand that typhus vaccine be manufactured in the East for the entire Wehrmacht." What are the events which led to that letter?

A. As far as they concerned the Chief of the Medical Service of the Luftwaffe and the Wehrmacht, I do not know. I only know of this letter where Professor Rose informed me that the demand had been put to the Chief of the Medical Service of the Wehrmacht to have typhus vaccine manufactured for the entire Wehrmacht in the East.

Q. Was that suggestion realized?

A. No, it was never carried out, and I do not know how far it went at all between these two offices.

Q. You received neither a positive nor a negative decision?

A. That is correct.

Q. That correspondence from the year 1943 and 1944 which deals with the manufacture of typhus vaccine - did that have anything to do with typhus research as such?

A. No. One is a research assignment; the other would have been a production assignment.

Q. Who was your superior as Oberstabsarzt of the Luftwaffe?

A. As I pointed out already, that was the Air Fleet Physician Reich.

Q. Was Professor Handloser as the Chief of the Medical Service of the Wehrmacht in a position to give you any orders?

A. No. As far as I know military channels, that was not possible.

Q. Now, if he had wanted to get some information about something which you might have been in a position to tell him, what would have been the right way for him to find out?

A. He had the choice between two methods, either through official channels through the Chief of the Medical Service of the Wehrmacht, Chief of the Medical Service of the Luftwaffe, and down to me, and I would have had to pass on this information through the same channels the other way around. The other method, which would be much simpler and would probably have been used, would have been for the Chief of the Medical Service of the Wehrmacht to have written to me, "My dear colleague, I would appreciate it if you could give me that and that information." That is to say, simple correspondence between two colleagues, two doctors.

Q. Then officially he would have had to go through the Chief of the Medical Service of the Luftwaffe?

A. Yes, that is my opinion. Whether it is quite correct I do not know.

DR. NELTE: Thank you. I have no further questions to this witness.

THE PRESIDENT: Are there any other questions to be propounded to the witness by any defense counsel?

BY DR. WEISSGERBER (For the defendant Sievers):

Q. Professor, since when do you know Sievers?

A. I saw Sievers for the first time here in Nuernberg. That was in 1945-46.

Q. Then you never saw Sievers in your Hygiene Institute at Strassbourg?

A. No, never.

Q. Do you happen to be informed about the fact that Sievers was at the camp of Natzweiler while you carried out your typhus vaccinations there?

A. No, I know nothing about that. At any rate, I never saw Sievers at Natzweiler.

Q. Did you ever send a report on your research work either to Sievers or to the Ahnenerbe Society or to the Institute for Military Scientific Research?

A. Only the letters discussed here to Hirt, and Hirt on his part may have passed on these letters or made reports or included them in reports of his own, but as far as I was concerned, I never made any report to the Ahnenerbe or to Sievers personally.

Q. Who put the rooms and equipment at your disposal for your vaccination work at Natzweiler? Did these requests go through Sievers?

A. Well, special rooms or equipment were not put at my disposal. The vaccinations were administered in the hospital where the vaccines were quartered at that time.

Q. In answering a question put by my colleague Tipp, you have already stated that to carry out the typhus vaccinations you requested inmates as vaccinees. Now I should like to find out whom you approached for that.

A. I have already stated yesterday that these vaccinations were based on discussions which had taken place between the camp commandant and myself, that originally there had been no intention of having any other agency concerned in them, but that Hirt, when he heard about it, considered it necessary, since this was a new type of vaccination, to request special approval for it, and that started the entire correspondence.

Q. You also mentioned the reports on your work which you sent to the Reich Research Council. To whom were these reports addressed, as far as they went to the Reich Research Council?

A. The Reich Research Council.

Q. But did they go to the head of the specialized department (Fachspartenleiter), for instance to Generalarzt Schreiber, or what do you know about the way the correspondence was received there?

A. For years I had the habit of sending my reports to an administrative official whom I knew for many years, that was a Dr.

Breuer, and he probably forwarded them to the official in charge of that particular subject; I assume that Dr. Breuer might have taken my reports together with others and given them to Schreiber, or whoever was dealing with that matter.

Q. Concerning the typhus vaccinations, may I then sum up that Sievers was of no importance as far as the execution of these experiments was concerned, and also as to the typhus research itself, and had no connection with it as far as you know?

A. With the work itself Sievers had nothing to do, of course, and as far as I understand it, Sievers only passed on my application with a recommendation. I believe there is a letter to me where Sievers informs me that he has passed on my request.

Q. The prosecution has submitted a Document NO 881, Exhibit 280. That is an affidavit by Rene Colomba Wagner, who was a scientific draftsman with Professor Hirt in Strassbourg. In this affidavit Wagner speaks of Sievers as being the superior of Professor Hirt and says literally, and I quote, "Sievers was frequently in Strassbourg and was informed about the facts mentioned below. He received regular reports on all work conducted by Professor Hirt at the University of Strassbourg, and through Hirt he was also always informed about the work done by Professor Haagen. I myself frequently saw Sievers at Strassbourg in Hirt's office where I worked." You were also a professor at the University of Strassbourg, were you not, and a colleague of Professor Hirt, as you have explained today? From your work at Strassbourg do you know that Sievers was the superior of Hirt, or did Hirt in conversation with you speak of Sievers as his superior?

A. In his position as a professor and director of the Anatomical Institute Professor Hirt could not have been subordinate to Sievers.

Q. Did you know Hirt's office in the Anatomical Institute?

A. Yes, I did.

Q. Did you ever meet this Wagner there?

A. I cannot remember ever having seen him.

Q. Suppose you went to a conference in Hirt's office. Could Wagner find out about that?

A. Surely. Yes.

Q. Do you know where Wagner's room was?

A. No, I do not know that. But it is possible, of course, that one met in the corridor. That is not excluded. That is quite possible.

Q. By coincidence.

A. Yes, by coincidence, of course.

THE PRESIDENT: Counsel, how many more questions have you to propound to the witness?

DR. WEISSGERBER: I have approximately four or five questions, Mr. President.

THE PRESIDENT: The Tribunal will now be in recess until one-thirty.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

"The hearing reconvened at 1330 hours, 19 June 1947.)

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: The Secretary General will note for the record the absence of the defendant Pokorny, who has been excused to consult with his counsel.

Counsel may proceed.

EUGEN HAIGEN - Resumed

EXAMINATION (Continued)

BY DR. WEISGERBER (Counsel for defendant Sievers):

Q Professor, in view of your long years of teaching at Universities, you can assuredly answer the following question. What role does the scientific draftsman play in a dissecting room? Does he have complete insight into his chief's activities; does he have an opportunity to see reports that this chief has drawn up; and, above all, is he capable of understanding their contents completely?

A That question cannot be answered so easily. It depends, first of all, on what position this draftsman occupies, what special training he has had and, of course, it is important also, what his personal relations are with the professor in question. Now, just what the relations are in this case, I unfortunately cannot tell you. It is to be assumed, of course, that if the person is making drawings of such a specialized field he probably is in pretty close contact with his superior because there will be things to discuss; but, as I said, I cannot give you details about this.

Q If this man is a professional draftsman who has taken this position in a dissecting room during the war, in 1941, however, one might assume that the contact with his chief was not so very intimate that he would know all about the chief's activities? I am referring, as you may notice, to the situation at the Strassbourg University. Do

not these facts I just mentioned also play a part?

A Certainly; in judging such personal matters these things are important. If this draftsman visited his chief all the time and entered and left the room all the time, they may have had pretty close relations. But, as I said before, I cannot tell you how close they were.

Q Did Professor Hirt ever tell you that he had informed Sievers of your work?

A So far as I know he did this only in the course of his correspondence that dealt with the vaccines he was asking for.

Q No other cases that you know of?

A No.

Q Do you assume that in other cases Hirt might have informed Sievers of your work?

A No, I don't believe he did.

Q Thank you. I have no further questions.

DR. KRAUSS: (Counsel for defendant Rostock):

Q Professor, did the research assignments in typhus and hepatitis which you were given by the Reich Research Council bear Professor Rostock's signature?

A I cannot recall ever having seen Professor Rostock's signature.

Q Professor, when you applied to the Reich Research Council, for financial reasons, for a research assignment, did you then deal with Professor Rostock?

A No. These applications were always made in writing and were sent to the Reich Research Council as an organization, or to Dr. Breuer.

Q Did you send written reports on your research to Professor Rostock?

A I do not believe so. I cannot remember that I did.

Q Did you ever report on such things to him orally?

A At most it is possible that we might have spoken about these things at the hepatitis conference but I cannot recall that we did.

Q Did you ever visit Professor Rostock in Berlin?

A No.

Q I must refer briefly to the affidavit that your former secretary, Miss Eier, signed. This is Document No. NO-883, Exhibit No. 320. In it, under No. 8, Miss Eier made statements to the contrary in this matter. I shall have the affidavit put to you and ask you to read No. 8, which is on page 104 of Document Book 12.

A Yes, I see this, but Miss Eier says "I think." She says, "Professor Rostock was in constant touch with Haagen and they made numerous oral reports to each other; Haagen used to visit Rostock in Berlin."

Q Please read No. 8 and then I will put a question to you.

A Very well.

Q Professor, the witness, Volitz, has corroborated in its major points what you have just said. Can you also state, with absolute certainty, that this is an error in memory on the part of Miss Eier?

A Yes, that is the only way I can construe this because Miss Eier must have known to whom I wrote letters and from whom I received them.

Q Then you did not send or receive letters involving Professor Rostock?

A No.

Q Thank you. No further questions.

THE PRESIDENT: Any other questions of the witness on the part of defense counsel? If not, the prosecution may cross-examine.

CROSS EXAMINATION

BY MR. MC HANEY:

Q. Witness, did you know the position held by the defendant Rostock in the office of the defendant Brandt?

A. I can say about this only that from letterheads that I have seen I knew that Rostock did something in Brandt's office.

Q. Did you know what this "something" was?

A. No, I didn't.

Q. Where did you see these letterheads? I understood your testimony about two nights ago to have been that you had no correspondence with Rostock.

A. Just at the conclusion I said that I had had no correspondence with Rostock in this matter. That is just what I got through saying. I received a few letters from Professor Rostock. These letters were concerned with the training of a technical assistant and it is from them I saw the letterheads I just mentioned.

Q. Did you have correspondence with him about anything else?

A. No, I can't recall that I did.

Q. What about the electronic microscope?

A. I never had an electronic microscope.

Q. And you can remember that you definitely had no correspondence with Rostock concerning the electronic microscope?

A. I cannot recall ever corresponding with Rostock in that matter.

Q. You knew that Rostock was chief of the office for science and research under Karl Brandt, didn't you?

A. I have just told you that I do not know exactly what position Rostock occupied in Brandt's office.

Q. Did you know whether it had anything to do with research?

A. That I assume.

Q. Did you know that Rostock in August of 1944 classified your

typhus research as urgent?

A. Of that I knew nothing.

Q. I understood your testimony to be that from the time you went to Strassbourg in October 1941 until the summer of 1943 you were not a member of the Luftwaffe.

A. From 1 October 1941 until the middle of 1943 I was on leave from my military duties. I had leave to carry on work.

Q. And you did no work for the Luftwaffe during that period?

A. No.

Q. I am under the impression that you received an influenza research assignment in 1942.

A. That is so, yes.

Q. And you did nothing about it?

A. How am I to understand you to mean that, that I did nothing about it?

Q. As I understand it, you testified that from October 1941 to the summer of 1943 you were on leave from the Luftwaffe and had nothing to do with them. I point out to you that in 1942 you received a research assignment on influenza from the Luftwaffe. I have some difficulty reconciling these two propositions.

A. You have to discriminate between two things here: on the one hand, my military activities, and on the other hand my activities as professor and scientist. I received this assignment not as a member of the Luftwaffe but as a researcher and specialist in this field.

Q. But you were working for the Luftwaffe in whatever capacity, weren't you, Professor?

A. I received this research assignment from the Luftwaffe but that does not justify you in saying that this research assignment was for a specific office of the Luftwaffe. I have already told you that when we wanted research assignments we turned to whatever office could provide us the funds.

Q. Professor, I am not interested in that. I am just inquiring

from you whether you were doing research. We will leave it to the Tribunal to decide whether or not any of the defendants in the dock were responsible for that, but your testimony had left the impression that from October 1941 until the summer of 1943 you weren't doing anything in connection with the Luftwaffe and I just wanted to point out that that is not quite accurate. Now, when you were on active duty with the Luftwaffe, you were subordinated to the Air Fleet Physician Reich, were you not?

A. On leave I was not subordinate to him.

Q. During the period when you were not on leave.

A. Until 1 October 1941 I was subordinate to the Air Fleet Physician; from 1 July 1943 I was again subordinate to him.

Q. But he could issue orders to you, couldn't he?

A. He could give me no orders.

Q. Couldn't give you any orders?

A. No.

Q. Did he have any disciplinary rights over you?

A. No.

Q. Then you really weren't a member of the Luftwaffe? You had no commander, no one to issue orders to you, is that right?

A. The Air Fleet Physician was not my superior and could not give me orders, nor was I subordinate to him disciplinarily.

Q. Did anybody give you orders in the Luftwaffe?

A. Yes.

Q. Who?

A. The Luftgau physician No. 7 in Munich.

Q. He could issue orders to you?

A. That is right.

Q. And he could discipline you for any infractions of the regulations, is that right?

A. That is so. Of course, he could give me disciplinary penalties.

Q. And if Luftgau physician No. 7 indicated a desire that you carry

out research on typhus, I assume that you would comply with that, would you not?

A. It is my opinion that research assignments cannot be ordered and I don't believe any superior could have been found who would have given such orders.

Q. Well, I don't recall that I used the word "orders" but you were a virus expert. I don't assume they would come to you with a problem on surgery but if they indicated a desire you work on typhus, as distinguished from epidemic jaundice, I am asking you if you wouldn't comply with that request.

A. I should not have had to accord with this request unless the request had interested me.

Q. But I assume you were a patriotic scientist working for the benefit of the German war effort and if Luftgau No. 7 and the chief of the Medical Service of the Luftwaffe felt that typhus research was a particularly important problem, I am asking you if you wouldn't work on it and subordinate any personal interests you might have in other fields. Isn't that right, Professor?

A. If someone had asked me to do this, that would have had to be a specialist in this field and the Luftgau physician who could give me orders was no specialist and would have left the decision up to me whether or not I wished to work in that field.

Q. Well, did you ever get any such suggestions from anybody?

A. No, no such proposals were ever made to me.

Q. What did Rose suggest to you in 1943?

A. Yesterday and today I explained what Rose and I talked about; to wit, the taking over of a vaccine manufacturing plant.

Q. Well, then he encouraged you to do that, didn't he, and also to develop an effective vaccine which you would produce?

A. That is so. We spoke of the vaccine that was to be produced.

Q. From what office were your research assignments by the Luftwaffe issued?

A. The research assignments that I received from the Luftwaffe were, since they were in the field of hygiene, primarily directed by the hygiene Referat, namely, Stabsarzt Atmer, as I have already said.

Q. You are testifying that Stabsarzt Atmer issued the research assignment to you, is that right?

A. Yes, in collaboration with Guenzel, who was in charge of the funds.

Q. Well, all of the research assignments that we have in our documents carry the Referat number 2 II B - that is, arabic 2, Roman 2, capital B - or 2F. Becker-Freyseng has testified that up until sometime in 1944 Anthony was chief of that office and thereafter he was chief of it.

A. I have already said that from the purely formal point of view the research assignments were worked on there but that the real decision on them was made by the hygiene Referat.

Q. I didn't ask you who made the decisions. I asked you who issued the assignments. You testified that Atmer didn't. The fact is that Becker-Freyseng's office, the Referat for Aviation Medicine, issued them, isn't it?

A. I never saw that any research assignments emanated from his office.

Q. Then Dr. Rose wrote you a letter in June 1943 saying something about Anthony being away and that he wished him to issue you the order when Anthony returned. You remember that, don't you?

A. I remember that and I also have just stated that this office worked on these assignments in a purely formal way. I also said that I am not intimately acquainted with the internal structure of the Medical Inspectorate so I cannot give you the precise data on this matter, but I can tell you that Becker-Freyseng had nothing to do with any research assignments.

Q. They just came formally through his office; that is all he had to do with them; is that right?

A. That is all I know about it.

Q. And from whence came the money? Didn't that also formally come out of 2 II B and 2 F?

A. I spoke only with Antsret Quenzel about financial matters, and he provided the money.

Q. What department was he in?

A. I don't know what the name of the department is. I do know that he took care of the financial matters.

Q. Never called Anthony or Becker-Freysong about that?

A. No.

Q. How did you account for the moneys that you received from the Luftwaffe?

A. The money was paid into the University treasury and I had to carry my accounts through the University treasury.

Q. You mean to say that when the Luftwaffe granted you a research assignment and 4,000 marks, that then they delivered the 4,000 marks to the University of Strassbourg?

A. It was sent to the Strassbourg University Treasury and they made the necessary payments, and so forth.

Q. That is to say, they made the necessary payments? Suppose you made a trip to Natzweiler or Schirmeck and it cost you 50 Reichmarks. How did you get your money back?

A. The trip to Natzweiler was made by car. The gasoline was purchased and a bill sent and a voucher made to that effect.

Q. And to whom did you turn over the voucher?

A. They all went to the Medical Inspectorate to Mr. Quenzel.

Q. They went to the Luftwaffe Medical Inspectorate?

A. They went to Quenzel, who was taking care of the finances.

Q. And did you render an accounting? You didn't send in each little bill, I assume. I guess you ran for a three month period or

some such period like that and then tallied up the items and made an accounting, didn't you?

A. That, of course, is true. Not every little bill was sent in, but when the sum allotted was almost used up, a final account was drawn up and sent to Mr. Guenzel.

C. And was he with the Strassbourg University or the Luftwaffe?
I am a little confused here.

A. He was a member of the Luftwaffe.

C. And did you show these trips to Natzweiler on these accounts you turned in to the Luftwaffe?

A. In the accounts there was only mention of the gasoline I bought at some gas station.

C. I am asking you if the accounts you turned in were in such detail that they could see that you were incurring expenses in connection with trips to Natzweiler and Schirmek?

A. No.

C. Didn't you ever make any telephone calls to Schirmek or Natzweiler, long distance calls?

A. Yes, I did.

C. You didn't charge those up on the expense account?

A. I didn't include them in the expense account because that was taken care of by my phone bill with the University.

C. You worked with the Luftwaffe for some time and I take it you rendered a lot of these statements. You're pretty clear in your testimony about this, that you couldn't tell from these statements that you were making trips to Natzweiler and Schirmek concentration camps?

A. The Luftwaffe could not see from these accounts that I was making trips to Schirmek or Natzweiler.

C. There was Schirmek in reference to Strassbourg?

A. Schirmek is west of Strassbourg in the Vosges Mountains.

C. How far?

A. Approximately 35 to 40 kilometers.

Q. Schirmek was a concentration camp, wasn't it?

A. Schirmek was officially a Sicherungslager, that is, a camp to house persons under security detention.

Q. That is a concentration camp, isn't it? It is like Natzweiler.

A. There must have been some difference because one is a concentration camp and the other is called a security detention camp.

Q. How big was Schirmek?

A. I can't tell you. You probably want to know how many inmates it had, but I can't tell you.

Q. Can't you give us a rough estimate?

A. That is terribly difficult. I should prefer to refrain from doing so.

Q. How often were you in Schirmek?

A. In Schirmek maybe four or five times, if I am estimating correctly.

Q. When did you go there first?

A. I can't tell you the exact date. I really can't be definite about that. I did our vaccinating in May, 1943, but when I was there for the first time I can't tell you. That was too long ago.

Q. Well, you were there for a time or two before you carried out your vaccinations in May, 1943, is that right?

A. I cannot say that for sure.

Q. You didn't visit concentration camps very often, did you Professor? I should think you would have a pretty keen recollection about your trips to concentration camps.

A. Please don't forget that I was also in Natzweiler, which was very nearby, and that altogether I paid a lot of visits.

Q. Any besides Natzweiler and Schirmek?

A. No.

Q. Who gave you permission to enter Schirmek?

A. The camp management.

Q. Did he come to see you or did you go to see him?

A. As I said yesterday, the camp commander of Metzweiler and his adjutant of Metzweiler with which Schirack was affiliated and the camp physician came to me.

Q. What was the purpose of Becker-Freyseng's visit to Strassbourg in July 1944?

A. Becker-Freyseng's visit to me in Strassbourg in 1944 was made because I had previously spoken to Professor Schroeder about the difficulties I was having to get animals, and he promised me that Becker-Freyseng would get in touch with me on the question of acquiring more animals. For this reason Becker-Freyseng came to me in Strassbourg.

Q. What kind of animals?

A. Our laboratory animals, primarily mice and also rabbits?

Q. Any guinea pigs?

A. I don't believe I asked for guinea pigs. Only mice and rabbits.

Q. He was not with Schroeder on the occasion of Schroeder's visit to see you in Strassbourg?

A. No. Dr. Becker-Freyseng was not with Prof. Schroeder at the same time in Strassbourg.

Q. And when did Schroeder come?

A. Schroeder had been there before.

Q. Do you remember in what month?

A. I said yesterday that Prof. Schroeder was with me in Strassbourg at the end of May.

DR. TIPP: Mr. President, for ten minutes Mr. McHoney has been asking questions, all of which have already been asked in the direct examination and have been answered. The Tribunal wished explicitly that the examination of this witness be limited to the necessary minimum, and I object to his putting questions which I have already put. Perhaps the reason is that Mr. McHoney wasn't present during that part of the direct examination, but the questions really are not necessary, and I object to their being put.

THE PRESIDENT: This is a cross examination. Counsel may proceed.

BY MR. MC HANEY:

Q. Was Rose with Schroeder on the occasion of his visit to Strassbourg in May 1944?

A. No.

Q. And when did Rose see you in 1944?

A. Professor Rose was there at a different time. It was also some time during the summer, but not at the same time that Schroeder was there.

Q. And Rose also visited you in 1943?

A. Yes.

Q. Do you remember any other visits by Rose, other than these two?

A. Rose paid me no other visits.

Q. How many research assignments did you get from the Luftwaffe on influenza?

A. I had one research assignment from the Luftwaffe, and this was then subsequently extended, when the funds were used up.

Q. Well, including the original assignment, plus the extensions, there were three, were there not, beginning in '42? Another one in '43 and another one in '44, is that right?

A. No, you can't put it that way because I only asked for such funds when they were exhausted. It was all the same research assignment which in each case was extended.

Q. It was extended twice then, once in 1943 and once in 1944?

A. That is possible, yes.

Q And were you using a living virus in the influenza vaccine?
I understood you to testify that you were.

A I explained very carefully yesterday that in the influenza vaccine a living virus was used in the same way that vaccine is manufactured in other countries, such as America and England.

Q Now, Professor, couldn't you have answered that question "yes" without the three or four sentences?

A Yes, I could do that too.

Q I would appreciate it if you would. Now, how many trips did you make to Schirmeck in connection with the influenza vaccinations?

A For the purpose of influenza vaccinations I went to Schirmeck twice.

Q And you vaccinated twenty women?

A Yes.

Q What was the purpose of the second visit?

A The second visit was to ascertain whether there had been any reaction. In other words, to look into the tolerability of the vaccine.

Q And you found out the tolerability was good?

A Yes, the tolerability was good. No one's ability to work was in any way interfered with.

Q Do you remember how high their fever went?

A The temperatures hardly rose at all. If they had risen at all it certainly would have struck me.

Q How much influenza vaccine did you have available?

A About enough for 250 to 300 persons at that time.

Q Was influenza vaccine generally available in Germany?

A Various agencies were concerning themselves at the time with the manufacture of influenza vaccine, just at that time.

Q Was there any concerted effort to have large scale influenza vaccinations carried out on German soldiers or on civilians?

A Many vaccinations were made at that time, particularly on

civilians and soldiers.

Q I have some difficulty in understanding why you went to Schirmeck and vaccinated twenty women with this vaccine.

A A camp is always particularly vulnerable when there is a possibility of an epidemic breaking out because people are packed so close together in the camp that the epidemic is likely to spread very quickly. In any camp there is always a group of persons who are particularly likely to spread such an epidemic of influenza, namely, those who move from one barracks to another, taking care of food, transportation and so forth. Now if one such person is infected with influenza it is very easy for the person to travel from one barrack to another and spread it and that is why I vaccinated those twenty women who were designated to me by the camp commander as people who were endangered in this respect.

Q It is your scientific opinion and you want the Court to understand that in a camp the size of Schirmeck vaccinating twenty women was a good prophylactic measure to keep down influenza in Schirmeck, is that right?

A Of course, I should have preferred to be able to vaccinate more people but my production capacities were small in this respect, so consequently I vaccinated only those who were particularly dangerous. In Schirmeck it was these women and in Strassbourg it was the 200 employees who were vaccinated because here again the danger existed that these 200 nurses and doctors in the hospital, namely, the ones who were vaccinated, would transmit the disease. They themselves were particularly in danger of contacting the disease because they worked in the hospital.

Q So that your testimony is that the camp doctor of Schirmeck came to you and said that there is danger of an influenza epidemic in Schirmeck. Won't you come there and help us out, and you had no interest in testing this vaccine at all, but you did go there and vaccinated twenty of the most susceptible carriers with the influenza vac-

cine, is that right?

A The camp physician didn't ask me. I from my own epidemiological knowledge saw this danger and since the camp management was agreeable to this I was able to carry out these vaccinations.

Q You went to him then. He didn't come to you?

A In the case of influenza vaccinations I went to him.

Q Which took place first, influenza or typhus?

A Typhus, that was May 1943.

Q He had already come to you in connection with the typhus danger and after you had made his acquaintance you suggested the influenza, is that right?

A I didn't suggest it. I told him I thought it would be a good idea if he had this vaccination in the camp. He saw the truth of this and then I could do the vaccinating.

Q And these tests you carried out there were no different from the other 200 you carried out on students and assistants in Strassburg, is that right?

A This was not an experiment but a regular protective vaccination and was exactly the same sort of thing which I did with my personnel in Strassburg.

Q And you were not interested in making any observations on the reaction against the vaccine, you were vaccinating like we give a small pox vaccination, is that right?

A That is right.

Q And this had nothing to do with your research assignment from the Luftwaffe, of course?

A It had nothing to do with it, no. That was my own initiative and my own idea.

Q Just protective vaccination?

A That is right.

Q Well, I assume you didn't charge this to the Luftwaffe then, is that right?

A How am I to understand that: "Charge it to the Luftwaffe?"

Q Well, you had received money from them to do something for them in the way of influenza research. I haven't heard much about what you did but you said these protective vaccinations didn't have anything to do with it and I am asking you if you charged whatever expenses you incurred in connection with it to the Luftwaffe?

A As I said, all of the things I did for the Luftwaffe I charged them for. When I was in Schirmeck, of course, I charged them for the gasoline for the trip.

Q But you didn't do these vaccinations for the Luftwaffe?

A That is correct, I didn't.

Q Well, let's look at the charge sheet you did submit to the Luftwaffe. You made two trips to Schirmeck in connection with this influenza vaccine, is that right, Professor?

A Yes, two, in winter 1943.

Q Well, let's see what this shows.

A Yes.

Q Now this is a statement of expenditures on your influenza research, isn't it, Professor? This is document No. NO-3450, a statement of expenditures on your Luftwaffe influenza research, isn't it?

A Yes.

Q The first assignment on the 22nd of January 1942, and then that was continued again in 1944, which shows that it came out of the office II F, that is Becker Freyseng's office, isn't it?

A Here I see the date of '43 to '44, if I am reading correctly.

Q Yes, I think that is true. You testified that you made some trips to Schirmeck?

A Yes.

Q And called over long distance telephone also on the 28 October 1944, in connection with these protective vaccinations. Did you find that, the 28 of October 1943?

A Yes, I see that.

Q You charged that to the Luftwaffe, didn't you?

A Yes, that is included in the 'phone calls.

Q And way down in '44, the 12th of February, you made another trip to Schirmeck, didn't you, 25 marks, in connection with these protective vaccinations?

A Here I see the 12 of February one entry return of two boxes.

Q The 12th of February, 1944?

A Ah, here it is. Here it is, that other one, two trips to Natzweiler, because Natzweiler and Schirmeck were more or less all one thing. That is the way to explain that.

Q That is the way to explain what -- that you called Natzweiler "Schirmeck"?

A In Strassburg that is the way we called them and I wasn't the person who wrote these things, I just dictated this Natzweiler or Schirmeck to my secretary and as I told you, there were all one thing.

Q I didn't understand you testified anything about having made any influenza protective vaccinations in Natzweiler, did you?

A No, none were done there.

Q Well, this bill here has nothing to do with typhus. We are only concerned with influenza here.

A. Perhaps the title of this is influenza but that doesn't mean a thing. If I made a trip to Natzweiler, I could have put that down under influenza. Everything wasn't done as carefully as all that. The secretary made the notation and then put it down.

Q. You didn't tabulate your expenses in connection with your influenza work separate from that in connection with your typhus work? Isn't that right, you just lumped them all together?

A. Yes, perhaps in the typhus accounts there are things that really should have been in the influenza account, and vice versa. That is quite possible.

Q. So you deny to the Tribunal that you went to Schirneck 12 February 1944 in connection with influenza, is that right?

A. That is certainly the case. I did not go to Schirneck on account of influenza.

Q. And on 29 February, "long distance telephone Schirneck 108", what is that telephone number? You undoubtedly know that very well.

A. Yes, that was Schirneck, too. I guess I telephoned Schirneck for something or other - wanted to know something about the fever graphs from before. That is all quite possible. All these were serological examinations that had been sent in to us about which I telephoned back.

Q. You are positive that Schirneck 108 is the telephone number in the Schirneck camp, is that right?

A. That I can't tell you for sure today. That might have been Natzweiler.

Q. Well, do you know whom you were calling when you called Schirneck 108? Whom did you get on the telephone?

A. My secretary made the connection and I just don't remember the numbers. Once the connection was made then she put me on the wire.

Q. Who did you talk to?

A. I talked with my secretary and she made the connection.

Q. I mean who did you talk to in Schirneck or Natzweiler. You made a telephone call. Who did you talk to?

A. Spoke to the camp physician.

Q. I think you will find that Schirneck 108 is the Natzweiler number. You made a call on 29 February, on 28 March; on the next page on 18 March you will find long distance call Schirneck 108 Natzweiler. Find that?

A. One long distance call Schirneck. Yes, that must have been Natzweiler. With the best will in the world I can't tell you what the number was; I am very sorry.

Q. And on 25 April, 5 May, and 6 May you made additional calls to Natzweiler, is that right?

A. If the number is here, then we made the calls.

Q. But that has nothing to do with influenza?

A. No, it didn't. The secretary just put it down here as having some connection with research assignments.

MR. MC HANEY: If the Tribunal please, I do not know the next exhibit number in order.

THE PRESIDENT: You can ascertain that during the recess period and properly advise us later.

MR. MC HANEY: Very well, Your Honor, I will offer this document at that time.

BY MR. MC HANEY:

Q. Didn't this co-mingling of your influenza expenses with your typhus expenses cause any confusion with the Luftwaffe?

A. I don't think so. The same person was concerned in both, namely, myself. I was the one to whom the assignment had been given.

Q. Well, but if the Luftwaffe decided to give you 4000 marks for typhus research and 4000 marks for influenza research weren't you taking a slight advantage of them when you spent 3500 marks of the influenza money on typhus and raising the total of research money of typhus to say 7500? Wasn't that sort of imposing a little bit on the Luftwaffe?

A. No, you can't put it that way. All these were scientific assignments that I was working on and if the money in one fund was a little

short why we could make it up from money out of the other fund. I know no misgivings were expressed about that.

Q. Now on epidemic jaundice for a few minutes. As I understand your testimony, you admitted that you were planning to carry out epidemic jaundice experiments on human beings, is that right?

A. Yes, I spoke of that planning yesterday.

Q. And this was to be in collaboration with Kalk, Buechner, Zugschwert, and Dohmen.

A. Who was the first?

Q. Kalk, K-a-l-k.

A. Oh, Kalk, yes, that was our work circle.

Q. Now, was Dohmen included in this work circle.

A. No, he didn't.

Q. Now, these human experiments were discussed in the Breslau meeting in 1944, presided over by Schreiber, weren't they?

A. Yes, Schreiber was chairman.

Q. Well then, I am sure it won't come as any shock to you that Schreiber later got in touch with the defendant Mrugowsky in January 1945 and asked him to arrange for 20 concentration camp inmates in Buchenwald. Do you know anything about that?

A. No, I don't.

Q. For what reason was your proposed plan to carry out jaundice experiments abandoned?

A. The war situation determined that. My opportunity to work in Strassbourg stopped around August, September because student companies were sent off, the reserve hospitals were changed into army hospitals, and there were no more chances to work there.

Q. Now you testified that you planned to use volunteers from the student companies of the Wehrmacht at Strassbourg, Freiburg, or Heidelberg, is that right?

A. Yes, that is so.

Q. How far is Freiburg from Strassbourg?

A. About one hours train ride.

Q. How many kilometers from Strassbourg?

A. I guess it is about 60.

Q. From Heidelberg?

A. Heidelberg - one and one-half to two hours train ride.

Q. How many kilometers would you say Heidelberg was from Strassbourg?

A. I should estimate 90 to 100.

Q. And you feel that those two cities are in the vicinity of Strassbourg, is that right?

A. Yes, it was very easy to reach them by car.

Q. Did it ever occur to you to use the words Strassbourg, Heidelberg, Freiburg in this letter concerning these jaundice experiments on human beings when you used instead the term Strassbourg and vicinity?

A. Yes, as I said yesterday, this was only a planning which was discussed with Professor Kalk.

Q. And the "in the vicinity of Strassbourg" could by no stretch of imagination mean Natzweiler?

A. No, not in this connection at all.

Q. Natzweiler, however, was a little bit closer to Strassbourg than either Freiburg or Heidelberg, wasn't it?

A. That is so but in this case very precise clinical observations had to be made and, as I said yesterday, we had to be able to rely on what vaccinated persons told us. Therefore, it was better to use medical students who had better interest in this matter.

Q. Well, now, were these student companies available for this purpose that you were planning to use them for? After all, they were studying; they had other things to do.

A. That is so, yes, but we could be perfectly sure that they would make volunteers available to us.

Q. You were sure that the Luftwaffe would make these people available although they had a lot of work to do and other duties, is that right?

A. Yes, but they also had vacations and we could very well have done

this work during vacation.

Q. Who told you you could use them or who led you to believe that they might be available for that purpose?

A. Professor Kalk was also of this opinion. He knew the mentality of the students and he believed that we would certainly receive the necessary number of students.

Q. Well, was Kalk in a position to know. I find it difficult to believe that you could get these students, Professor.

A. Mr. Prosecutor, we certainly should have got them.

Q. And what about clinical facilities and weren't they crowded? I also find it difficult to believe that you could have carried out your experiments in the clinic because of the crowded conditions.

A: I am sure that in the reserve hospitals we could have done the necessary work. The students didn't have to stay in the hospital very long and I believe that in this important matter certainly the space would have been made available.

Q: You are quite clear about that? You really want the Tribunal to believe that?

A: Why shouldn't they believe it? In other places also they carried on investigations with volunteers on hepatitis epidemics.

Q: And there was no regulation of the Wehrmacht preventing the use of these students or of soldiers?

A: I know of no such directive.

Q: Well, if there had been, no would you have known of it?

A: Since we should have to turn to the Chief of the Medical Service anyway, we should have been told something about such a directive if one had existed.

Q: And you can testify that you certainly could have carried out these experiments without going to a concentration camp, is that right?

A: It is certain that we could have done that with volunteer students.

Q: About how long would it have taken to carry them out?

A: How long would it have taken until what?

Q: To have carried out these experiments.

A: That probably couldn't be said in advance. You would have to ask a clinician, and it depends what the period of incubation is and how long the illness lasts. It could take a little while or it also could last a very long while. I can't tell you anything about it.

Q: Well, would it last at least two weeks, do you think?

A: I can't tell you.

Q: Suppose you tell the Tribunal the Winner was.

A: Winner? Winner was one of Hirt's assistants.

Q: A member of the Luftwaffe?

A: Yes, I think he was a Stabsarzt in the Luftwaffe.

Q: To whom was he subordinated?

A: I can't tell you.

Q: Don't know?

A: No, I don't know.

Q: What about Graefe?

A: Graefe was assigned to me in the Hygiene Institute, and then from 1942 on he was also an assistant in the Institute.

Q: He was a member of the Luftwaffe, wasn't he?

A: Yes, he was a Stabsarzt in the Luftwaffe, although he was detailed to me by the Luftwaffe.

Q: To whom was he subordinated?

A: Militarily he was subordinated to Luftgau Physician #7.

Q: Technically to you?

A: Scientifically or technically subordinate to me, yes.

Q: Who was Krediet?

A: That was a Dutch prisoner doctor in Natzweiler.

Q: He knows all about your experiments, doesn't he?

A: Yes, he assisted in them.

Q: Where is he?

A: I can't tell you. I assume he is in Holland.

Q: Who was Paulsen?

A: A Norwegian internist. The chief internist in the Natzweiler hospital.

Q: He was an inmate, wasn't he?

A: Yes.

Q: He also knows all about your experiments, doesn't he?

A: Yes, he does.

Q: And if he said you infected the experimental subjects with a virulent virus he, at least, was in a position to know, wasn't he?

A: Yes he was. He certainly was because we talked over the whole

thing.

Q: And what about Meyer? Who was Meyer?

A: He was the administrative inspector and was in my institute in Strasbourg.

Q: Meyer was in the Hygiene Institute?

A: In the Medicinal Research Institute - that was part of the institute, or rather, I was also in charge of that particular institute, and of this Medicinal Research Institute which I just mentioned, Meyer was an administrative inspector.

Q: He was Henri Pierre?

A: Henri Pierre? I think this is the first time I am hearing that name.

Q: He is a very slight young man, rather thin. Worked in Strasbourg. You don't remember him?

A: Where did he work? I can't remember the name. I can't associate the name with a person.

Q: Do you remember a man, working at Strasbourg, by the name of Bong?

A: I can't tell you for sure. That's not an unusual name, but I don't seem to remember it.

Q: Would it refresh your recollection if I told you he worked in the Anatomical Institute?

A: That wouldn't help me because I didn't know the personnel of the Anatomical Institute.

Q: Did you know Schuh?

A: Yes.

Q: Where did Schuh work?

A: He was an assistant in the Medicinal Research Institute.

Q: And you were his boss?

A: His immediate boss was Professor Trenz, the Director and Ober-medizinalrat of that institute.

Q: But you were in charge of that superior of Schuh's, is that right?

A: No, I was the scientific director of both institutes, but I had nothing to say about the personnel of that other institute.

Q: I believe you have already testified that you don't remember Wagner.

A: You mean the draftsman Wagner?

Q: Do you remember him?

A: I know the name from the documents involved in this trial, but I can't remember him. I wasn't acquainted with the personnel of this anatomical Institute.

Q: Now, Fraulein Schmidt - she worked with you, didn't she?

A: Yes.

Q: Do you remember an inmate by the name of Nales?

A: No, I don't remember him.

Q: Don't remember Nales. He remembers you.

Do you remember an inmate by the name of Broers? A Dutchman, a doctor? He was in Natzweiler.

A: I only know the name, Dr. Kredit is the only doctor I know.

Q: Don't know a certain Dr. Boegarts, an inmate at Natzweiler?

A: He was the chief surgeon in the hospital at Natzweiler.

Q: That's right. He performed the autopsies.

A: I never saw any autopsies of his. I can't tell you. I don't know.

Q: We'll come to that in a moment.

How far was the Hygiene Institute from the Anatomical Institute?

A: Five to eight minutes by foot.

Q: Were you on pretty good terms with Hirt?

A: I made his acquaintance when I went to Strasbourg, and, as colleagues, we had touch with one another.

Q: And Bickenbach?

A: I had no contacts with him.

Q: Well, you know Bickenbach, didn't you, Professor?

A: Sure, I knew him, but we saw each other very infrequently.

Q: What was Bickenbach's job at Strasbourg?

A: He was director of the Internal Polyclinic at the University.

Q: Did you ever bump into him in Natzweiler?

A: No. I never hit him in Natzweiler.

Q: Suppose you tell the Tribunal what you know about Hirt's gas experiments, Professor?

A: I only know what I have read here in these documents in this trial.

Q: You were in Strasbourg from October, 1941. Hirt carried out his experiments from November, 1942, until the late summer of 1944 in Natzweiler. You want to tell the Tribunal you don't know anything about his experiments with Lost gas, is that right, Professor?

A: I have already said that I know nothing about Hirt's work and experiments.

Q: Did it come as a great surprise to you, and I suppose it did, when you read these documents and learned that Hirt was carrying out experiments in Natzweiler with Lost gas? Is that right?

A: I just found it out from these documents. Now I know.

Q: Do you also want to testify to the Tribunal that you know nothing about your colleague Bickenbach's experiments with Lost and Phosgene gas?

A: It was only in connection with this trial that I, for the first time, heard of these experiments. I was asked about that some time ago.

Q: And I suppose that it's pointless for me to ask you to tell the Tribunal what you know about the Jewish skeleton collection which rested in the basement of the Anatomical Institute, eight minutes away from August, 1943, until the Allies entered in November 1944? Did you know anything about that?

A: I knew that only from these documents and from the reports in the papers last year, regarding it.

Q: Did that come as something of a shock to you?

A: When I read it, you mean? In November 1945, I was asked about these matters here in Nurnberg and that was the first time I heard anything about them, so I wasn't too surprised later after I found out further details here.

Q: You mean you weren't surprised really when you found out about that? You find it quite believable that Hirt and Bickenbach were capable of doing these things, is that right?

A: I didn't intend to say that. I wasn't surprised because I already knew. During my interrogations here in Nurnberg these things had been brought to my attention. It was a matter course that I was surprised that such things had been done.

Q: Would the Tribunal like to adjourn at this time?

THE PRESIDENT: The Tribunal will be in recess.

(A recess was taken)

THE MARSHALL: The Tribunal is again in session.

BY MR. MCHEANEY:

Q Document No. 3450, the Statement of Expenditures in connection with the Influenza Research Assignment by Haagen will be marked for identification as Prosecution Exhibit No. 519.

Professor, you testified that you know nothing about Hirt's gas experiments or Bickenbach's gas experiments; is that right?

A That is correct.

Q Did you ever carry out any gas experiments?

A I have never carried out any such experiments.

Q The affiant Schuh in Document No. 335, Prosecution Exhibit 314, which you have already read, states in paragraph 7 that he learned from Meyer that Haagen together with Professor Hirt made some trials of combat gas - Lost - in Metzweiler on Jewish prisoners; do you deny that?

A Yes, I have to deny it because such trials were never made by me.

Q Then you know nothing about any such trials, whether made by you or other persons?

A I did not know anything about such trials.

Q You don't know that Hirt was interested in gas at all; is that right?

A At that time I did not know it.

Q Did you have any information about the work of Hirt at Strasbourg?

A I knew very little about what Hirt did in his institute.

Q You did not hold any faculty meetings in Strasbourg?

A Yes, we had those in the same manner as in any university.

Q It was my understanding that at other universities they discuss one another's work and pretty generally are advised on the work of their colleagues; that was not true at Strasbourg?

A I do not believe that each individual professor speaks about his work with his colleagues; that is not only the case in Strasbourg but at all universities and I assume that Professor Hirt had reasons why he did not speak about his work.

Q Well, I can appreciate that. He probably would not have spoken about his gas experiments on inmates at Metzweiler to an ordinary person,

but on the other hand it occurred to me that it might be possible, if not probable that a man who himself went to Hirt to have concentration camp inmates made available to him for experiments might know something about Hirt's experiments on concentration camp inmates too, but you say that is not so?

A I am sorry, but I have to say again that Hirt had not told me anything about his work.

Q You may have noticed that the affiant Wagner in Document No. 881, Prosecution Exhibit 280, says in paragraph 8:

"For Professor Hagen, I had to make a chart of about 2 x 1 meters, on which were listed the various combat gasses with their chemical formulas, and which gave indication on the dangers that men could encounter. I have deducted that experiments had been made on human beings."

Do you know anything about that?

DR. TIPP: May I ask that the Document be also shown to the witness and that it be put to him. That has always been done and I know Professor Hagen does not have the document in front of him right now,

THE PRESIDENT: It seems that the document should possibly be submitted to the witness.

MR. MCANEY: I can submit it to him in English, I understand he reads English. I do not have it in German. I understand he has been shown the document by Wagner as I understand that he is here. You read English, don't you, Professor?

THE WITNESS: Yes, I do.

BY MR. MCANEY:

Q You will find this under paragraph 8. Did you read the paragraph?

A Yes, I have seen it. Wagner writes here that he drew up a chart for me and that he was told to draw up a 2 x 1 meter chart where various combat gasses with their formulas were given and also indications of the danger which human beings would encounter. He concluded from that that experiments on human beings had been made.

I personally do not know anything about a chart or a table of that

kind . I can not recall that I ever gave Wagner an assignment of that nature and in my lecture I never spoke about gas, combat gasses, so that I can not imagine today that I should ever have given an assignment for a chart of that kind. I mentioned before that I did not know Wagner.

Q: Then you deny Wagner's statement is true, is that right?

A: Well, I cannot remember ever having ordered a chart of that kind.

Q: If you ordered a chart which concerned gas warfare and experiments on human beings, you would remember it, wouldn't you, Professor?

A: I certainly would remember it, of course.

Q: So you must testify that Wagner was not telling the truth in his affidavit, mustn't you?

A: Certainly, certainly, because I knew nothing of that chart.

Q: I just want to make the record clear about your position. I don't want to have the record show that you might have forgotten this. Wagner knew you as distinguished from Hirt. He wouldn't confuse you with Hirt?

A: But one would have to assume that I should remember a man like Wagner if I had given him an assignment.

Q: I was asking whether Wagner could possibly have made any mistake as between you and Hirt. That is not very likely, is it?

A: I don't know, but I have seen from other passages of the transcript that I was carried there as an assistant of Hirt's, so it is possible that there may be a mistake of that kind.

Q: Well, Professor, I don't want to argue with you about these lost gas experiments, but on the other hand I want you to be advised so that you can make statements now that Mr. Hollis, when you say you do not remember, that he was an inmate in Natzweiler, and it says he was assigned to you as an assistant in 1944. Pardon me, that is incorrect. I am speaking of another witness now. He says that you supervised autopsies of persons who had been killed in these prison gas experiments in Natzweiler in the early part of 1944.

THE PRESIDENT: Whom are you referring to, counsel? How does "he" refer to?

MR. McHANEY: Wellis, Your Honor. Pardon me. Now let me get this straight. Let's go to the witness Boegers first.

DR. TIPP: May it please the Tribunal. Mr. McHaney refers apparently to a statement made by the witness. In the witness' testimony, I cannot remember that a testimony of this kind had been introduced in this trial up to now. So far it has been the custom that such documents could only be used in the cross examination if they had been submitted previously. Perhaps Mr. McHaney will be kind enough to submit the document to us before he discusses it with the witness.

MR. McHANEY: If the Tribunal please, the prosecution is rather in the middle. I suppose that if we call witnesses, which we certainly intend to do, to testify about Haagen's activities in Natzweiler, and they testify about his Lost gas activities, there that then the defense counsel will complain that Haagen should be recalled and be given an opportunity to answer that. Now I am anticipating that certain witnesses whom we have interviewed will testify concerning Lost gas experiments with which this witness was allegedly connected. Now if he wants to say that that is impossible, that he never had anything to do with Lost gas experiments, we can go on.

THE PRESIDENT: Counsel merely requested that the document which the prosecution was referring to be exhibited to him. That is as far as his request went.

MR. McHANEY: We have no document, Your Honor, of any probative value whatever. We have a little memorandum here made by a person who interviewed these witnesses.

THE PRESIDENT: The Tribunal was not aware of what memorandum you had.

DR. TIPP: Mr. President, may I also emphasize the following: Mr. Hardy asserts here that Haagen had made experiments with Lost gas and he wants to question him on that. He could do that if Haagen were

a defendant here, but Haagen, as far as I remember, is a witness specifically, a witness for Schroeder and Becker-Freysong. Up to now the prosecution has never asserted -- it is not to be found in the Indictment or in the presentation of evidence -- that Becker-Freysong and Schroeder participated in Lost gas experiments. I do not know, therefore, against whom the prosecution wants to submit this evidence on Lost gas experiments. In my opinion, a witness can only be heard on matters for which he can be a witness and which are included in the Indictment. That is not the case here. The Lost gas experiments, at any rate, have not been presented as evidence against Schroeder and Becker-Freysong. Therefore, one cannot speak of a responsibility for experiments which allegedly the witness carried on. I do not know where this is going to lead to. If the prosecution wants to extend that part of the Indictment against Becker-Freysong, maybe he can hear Haagen as a witness on this point; but at any rate there must be an assertion by the prosecution first, otherwise we will experience the same thing as in the case of the Jittenu experiments, which have also been mentioned by the witness here. When Mr. Hardy was asked by Judge Sebring whether he includes these experiments in the Indictment, he said, No, that wasn't so. The same applies, in my opinion, to the Lost experiments. They are not a subject in the Indictment -- at any rate, not against Schroeder and Becker-Freysong -- and I do not know in fact what intentions Mr. McHoney has: what he wants to prove by questioning the witness on that point as far as this trial and these defendants are concerned.

MR. McHONEY: I have two very valid purposes in directing these questions to the witness. In the first place, I think that if I can contradict and show that he did participate in the Lost gas experiments, it might have some effect on his credibility with respect to the typhus experiments; in the second place, if we can show that the Luftwaffe through Haagen, and as we have already shown through the Stabsarzt Zimmer,

participated in these Lost gas experiments, we will certainly use them for any purpose against any of the defendants in the dock which are permitted by the Indictment. We would certainly use it for whatever it's worth.

THE PRESIDENT: On cross examination, counsel may test the credibility of the witness. In this case, of course, if questions propounded by the prosecution to the witness, if answering those questions would tend to incriminate the witness in any way, the witness can refuse to answer. But the cross examination has not gone beyond the field of proper cross examination. Counsel may proceed. Counsel in propounding certain of these questions should put them in the hypothetical form; say, if the witness says this about a certain matter, calling it to his attention if that would be correct or incorrect. Counsel may proceed.

BY MR. NEILMEY:

Q: Witness, did you or did you not witness the performance of any autopsies on experimental subjects killed during the course of gas experiments at Natzweiler?

A: I never witnessed that.

Q: You do remember the name Georges Boegarts as being an inmate surgeon at Natzweiler, is that right?

A: Yes, I remember.

Q: You know nothing of any autopsies performed by Boegarts, is that right?

A: Of these autopsies, I know nothing.

Q: And you were not interested in the fact that the lungs of the victims were so swollen that the anterior triangle of the heart, which is usually not covered by the lungs, was completely covered and obliterated by the swollen lungs in this case? You know nothing about that?

A: No, I know nothing about that.

Q: You spoke of typhus epidemics in Auschwitz. What information

do you have about any such epidemics?

A: Information of that kind we received, for instance, through inmates who came from Auschwitz and had already fallen ill from typhus when they arrived at Natzweiler.

Q: When did you speak to these inmates?

A: On the occasion of my visit to the camps, I spoke to the inmate physicians and they told me that inmate prisoners had arrived from Auschwitz and other camps already ill.

Q: Do you remember the month this was?

A: Well, the first case of typhus in my recollection was in February or March 1944.

Q: So your information is based upon what the inmate doctors told you about what happened in Auschwitz?

A: I saw the patients.

Q: Who was the camp commander in Natzweiler in 1943?

A: In 1943, that was Hauptsturmfuehrer Kramer who was camp commandant.

Q: How long did he remain there?

A: The exact date I could not tell you. I assume that that was spring '44. It must have been spring '44 when a new camp commandant was assigned.

Q: What was his name?

A: His name was Hartenstein.

Q: Who was the camp commander at Schirmeck?

A: That was Hauptsturmfuehrer Buck.

Q: And how long did he stay there, to your knowledge?

A: That I could not tell you with any certainty how long he stayed there; at any rate, when vaccinations against typhus and against influenza were made -- that was in 1943 -- at that time he was camp commander. For how long and whether he was still there in '44, I could not tell you.

Q.- Who was the camp doctor at Schirmek?

A.- In Schirmek itself there was, to the best of my knowledge, no camp physician but the medical care was administered by the camp physicians of Natzweiler.

Q.- Who was the camp physician at Natzweiler?

A.- There were three, in sequence, I met three of them. One was a Dr. Krieger, then Dr. Platzner and the third was a Dr. Rode. These were the 3 physicians I met.

Q.- Did all these gentlemen impress you as good, honest men?

A.- Well, I did not notice anything in particular when I was there.

Q.- What sort of a man did Kramer impress you as being?

A.- Well, I did not come to know Kramer very intimately. We only had conversations on the combatting of typhus so I should not like to pass any judgment on Kramer because my knowledge of his character is too slight — too limited.

Q.- Was it Kramer who invited you to go to Schirmek?

A.- It was Kramer, yes, who came to me.

Q.- And when was that, to the best of your recollection?

A.- In the course of the year 1943.

Q.- And he told you that he was afraid of a typhus epidemic?

A.- I think that that was on the initiative of the camp physician. The camp physician had explained the situation to Kramer. I do not know the background but at any rate both gentlemen came to see me and asked me for my support.

Q.- And you were admitted to Schirmek on the order of Kramer?

A.- To Schirmek? On order? Well, one could not speak of giving an order. Hauptsturmführer Buck just let me in.

Q.- Was there any contact with Berlin in connection with your work in the camp?

A.- No, no. I personally had no contact with Berlin.

Q.- Well, you testified about the WVHA yesterday. It occurs to me

that you have a pretty good working knowledge of the concentration camp system. Did you ever have any contact with the W.V.H.A.?

A.- I had no immediate contact. The correspondence went via Hirt.

Q.- And where did Hirt pass it on? It went to the defendant Sievers then?

A.- I think so. He intended to go to Sievers. Sievers gave me the information later that I would get the approval to carry on with vaccinations.

Q.- And Sievers sent it to Pohl of the W.V.H.A. - is that right?

A.- Well, these connections within the SS I do not know. I am not informed about them.

Q.- Did you ever have any contact with Lolling, in Amtsgruppe D of the W.V.H.A.? Dr. Lolling was the chief doctor.

A.- I met Dr. Lolling once, in the summer of 1944, on the occasion of the epidemic at Natzweiler. That is...

Q.- Was it customary, so far as you know, for camp commanders, like Kramer, to go out in the surrounding villages and towns and solicit the aid of people there in connection with the problems in the camp?

A.- I do not know how I am to understand that question.

Q.- We will pass that. You say the typhus vaccine you tested in Schirack in 1943 was a murine typhus vaccine?

A.- Yes.

Q.- And that, as we laymen understand it, murine typhus is rat typhus - that is right, isn't it?

A.- Yes, rat typhus, yes.

Q.- And that is not quite so dangerous as the so-called louse typhus or the Rickettsia prowazeki virus, is it?

A.- Well, I believe that it is very difficult to determine or decide that; both are varieties of typhus, the rat typhus as well as the louse typhus. There are others but whether rat typhus is milder I do not know. There are statements to that effect in medical literature but there

are also very serious vases of rat typhus so I think that it is quite difficult to decide or determine that. Both are varieties of typhus.

Q.- And this murine typhus vaccine had an attenuated avirulent virus, did it not?

A.- That vaccine contains, if it is living, an attenuated virus, virulent virus, which is no longer pathogenic to human beings.

Q.- Do I understand that you regard the word avirulent virus as designating a dead virus or merely a weakened live virus?

A.- Any dead virus is avirulent and every live virus which still has any effect, is virulent.

Q.- So that it would be incorrect to speak of an attenuated avirulent virus - is that right?

A.- It is not logic but some laymen, non-specialists, put them on the same level, that is, avirulent and dead virus. At any rate, it is correct, if one speaks of a live virus to consider it virulent and then to make the distinction to determine whether it is pathogenic to human beings or not.

Q.- Well, maybe I misunderstood, but I thought that the defendant Rose spoke for 3 or 4 days and used the term "attenuated avirulent virus" and I certainly did not understand him to be using the word avirulent as designating a dead vaccine. Perhaps we can check the record and establish that. Did you read the record of Rose's testimony?

A.- Yes, I have read the record of his testimony but I should like to have it put to me again if it should become subject to discussion.

Q.- Well, it is not necessarily an important point but did you notice, when you were reading, that Rose used the phrase "attenuated avirulent virus"?

A.- Yes, I read that.

Q.- Do you feel that the defendant Rose made a grievous mistake there?

A.- Well, it is an inaccuracy, but even today we find studies were

the term "avirulent" is used in the same meaning as harmless - not dangerous.

Q.- Of course, it makes your documents look a little bit nicer if we follow your definition, doesn't it, that a virulent virus does not necessarily mean anything except a living virus and it might be attenuated or might be regarded by Rose and the rest of us up to now as an attenuated avirulent virus?

A.- Well, maybe I can explain that again. As long as the virus is alive and active it is virulent; but we have to examine its effect in connection with the species where it causes a disease. A virulent virus may be highly pathogenic for animals but not for human beings. Then we have a virus which is not pathogenic to human beings but virulent and we find that designation also in other countries.

Q.- Now, you state that before you went to Schirmack you tested this murine virulent vaccine on yourself and members of your institute, is that right?

A.- I did not try it out on myself. I tried out the prouzoki virus on myself; I stated that yesterday. There were other members of the institute who were inoculated with that vaccine. I inoculated myself with prouzoki virus and, unfortunately, it is only possible to carry out one vaccination if one wants to obtain results, because 2 vaccinations, of course, would have disturbing effects on each other because the first vaccination is supposed to create immunization. But I had vaccinated a number of volunteers - 5 or 6 volunteers.

Q.- With this murine virulent vaccine?

A.- With that murine virulent vaccine.

Q.- How many people?

A.- There were 8 altogether, I believe, 8 persons.

Q.- Well, did that satisfy... What was the purpose of this vaccination of these 8 people? Were you testing merely for compatibility?

A.- That was the test for compatibility which always previously had

been made.

Q.- Did you make a Weil-Felix reaction test?

A.- The Weil-Felix reaction test was also made.

Q.- Well, was there...Did you go to Schirmek then to inoculate these other persons - vaccinate them with any view in mind of studying further this typhus vaccine, or were you satisfied that it was all right as a result of your 8 experiments or vaccinations on persons in your institute?

A.- Well, it was sufficient, in order to gain an impression on the compatibility, if one vaccinated 8 persons for that purpose it was entirely sufficient, and practice afterwards proved it.

Q.- Well, did you expect to get any valuable scientific data as a result of the vaccinations on the inmates at Schirmek?

A.- Well, that question could be answered in the affirmative, but a large amount of experience was available already in other places - experiences with these vaccines. I have yesterday already spoken about vaccinations with these vaccines. Such experiences had already been gained by French researchers.

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Q Well, we can say then that the real purpose of your going to Schirmeck was simply to accomodate the camp commander Kramer, who was worrying about a possible typhus epidemic?

A The camp commander certainly worried but I myself was worrying a great deal more because every typhus epidemic in a camp constitutes a danger to the civilian population in the vicinity of the camp.

Q That is the reason you went to Schirmeck?

A That is the reason I went to Schirmeck.

Q Now, how did you determine the efficacy of this murine typhus vaccine?

A By applying the Weil-Felix reaction test.

Q And you did that, both on your volunteers and the persons at Schirmeck, is that right?

A It was done in the case of all those vaccinated regularly.

Q Well, did that give you a reliable and definite result of the effectiveness of this murine typhus vaccine?

A That is not quite so easy to say, what it will give us we will gain an idea of the effect of this living virus compared to the effect of a dead murine virus. The agglutinations tita which we obtain with the dead virus are limited and serological examinations of the sera of people vaccinated have shown that the murine live vaccine leads to much better results. The tita values in the sera of those who are vaccinated with live virus are much higher than those who have been vaccinated with dead virus.

Q Well did you in any way test this murine vaccine as to its anti-infectious effect other than by running the Weil-Felix reaction test?

A No, that we also further examined in animal experiments whether that vaccine had an anti-infectious effect. That can easily been seen in animal experiments.

Q What other anti-infectious experiments could you have carried out on this murine vaccine?

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A Well, I believe that is a hypothetical question which I can only answer with a hypothetical answer. The first possibility, of course, is the one which was used, was applied, by the French researchers who vaccinated these persons first and then subjected them to artificial infection, a regular artificial infection. We find statements in medical literature to prove that.

The second possibility is to wait until an epidemic breaks out. If the persons vaccinated remain healthy, while during a large epidemic many people fall ill in the immediate vicinity, one can conclude that there is a good anti-infectious protection.

The third possibility is the one which I have described yesterday already, that of comparative serological examination. I don't know whether you were here yesterday when it was mentioned. I would be quite willing to explain it once more. Do you want me to do that?

Q Well, I am not sure. Is this something different from the Weil-Felix reaction?

A It is the Weil-Felix reaction which is carried out, before and after a subsequent vaccination.

Q But you did or did not do that in connection with the murine vaccine?

A I mentioned already that is a hypothetical question which I can only answer hypothetically. I did not do that.

Q Why not?

A In these cases it did not seem necessary.

Q In other words, the third type of test which you put is the vaccination plus post vaccination. You explained the words "subsequent infection" in some of the documents later on in November and December 1943?

A Yes.

Q You explain the words "subsequent infection" by stating that in fact it was a post or second vaccination.

A It was a third vaccination. The subjects were vaccinated twice.

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That concluded the immunization. The third, the additional vaccination, served the purpose to prove the immunity which was caused by the protective vaccinations and I had no misgivings to use the word "infect" instead of "vaccinate." We find that also in medical literature, that both words are used to express the same and I already set forth that any vaccination with a live virus an infection *per se*.

Q Well, would I be giving a proper example if I say that really what you meant was like vaccinating a man with a small pox vaccine and then, say two months later, giving him another small pox vaccine which doesn't take and you therefore conclude that he has been immunized against small pox? Is that right?

A That question, Mr. Prosecutor--may I formulate it slightly different so that I should be in position to answer it? In the case of this research we are concerned with the serological reaction, not a physical reaction. That is to say, I vaccinate with small pox, then a certain degree of immunity is achieved, and the second vaccination does not take. That is what you meant, isn't it? Well, it is not really right to compare this, to put this to the same level scientifically. Basically, what you mean and what I mean is the same. The only thing is that what mention--one is the physiological proof and the other one is the serological proof. I hope I have expressed myself clearly enough.

Q And why did you not carried out that type of test in connection with the murine vaccine?

A That had its reasons essentially in the fact that only in the course of serological studies after that time I conceived the idea to use these research letters in order to establish the anti-infectious effect of the vaccinations. We have frequently found out that during the illness already before the end of the convalescent period a reduction of the titre values in the serum can be found and since I have conducted similar research with small pox I intended to extend that study also to typhus.

Q Now, you testified that in May 1943 you vaccinated 28 persons in

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Schirmeck. 8 with five-tenths of a cubic centimeter of the vaccine, 10 with five-tenths of a cubic centimeter of the vaccine, and 10 with a dead vaccine plus five-tenths of a cubic centimeter of the murine vaccine.

Is that right?

A If I understood you correctly, 0,5 cubic centimeters? That is correct, that is right.

Q That should be one-half cubic centimeter.

A One-half? Well, that is five-tenths. Yes that is right.

Q A total of 28. Did you vaccinate any more in Schirmeck at any time?

A No, no, no, only with the dead virus -- three persons.

Q Three additional persons with a dead vaccine?

A Yes, with a dead vaccine.

Q How many trips did you make to Schirmeck with these vaccinations?

A According to my recollection there were four trips.

Q Four trips?

A Yes, I think so--yes.

Q There were no serious reactions to this vaccine?

A No, no serious reactions.

Q Why is it that you transferred your activities to Natzweiler?

A That had it's reason in the location with regard to epidemics. Schirmeck, as I said already, was a camp for security detention and there the type of people was quite different from those at Natzweiler. Therefore the conditions with regard to hygiene and immunology were such that Schirmeck seemed to be less endangered than Natzweiler as far as any epidemic was concerned.

Q And then through whom did you arrange this transfer of your activities?

A That I did on my own, from my own knowledge of the locations.

Q Isn't it a fact that you didn't carry out after infectious experiments with your murine vaccine because you had to obtain prisoners furnished by the SS and they would not permit you to carry out your experiments?

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riments on these 28 persons you vaccinated?

A No, no under no circumstances, because there were no experiments in the manner in which they are interpreted in this trial for that purpose. That was for the purpose of protecting these people.

Q Isn't the reason you went to Hirt because you had to have experimental subjects on whom you could carry out your planned after-infection experiments to test the vaccine?

A In the first place I did not originally turn to Hirt because the camp commander negotiated with me without Hirt's knowledge. I would have carried out this vaccination within the scope of the general vaccination program were it not for the fact that Hirt had intervened at the time, and the result of this interference is the points which you can find in the documents, among the documents.

Q For what reason did Hirt interfere?

A Specific reasons I could not tell. I do not know, but Hirt believe - and I have told the camp physician and the camp commander that I could not obtain sufficient amounts of the customary vaccine, the commercial vaccine -- there was not enough of that in Strassbourg, and that I would start to vaccinate with the new vaccine which was manufactured in my place. And, Hirt heard about that and thought probably that this was a new thing which required approval of the superior officer and he told me then that it was probably better if I ask the approval, and as known from the documents, obtained that approval.

Q When was the last time you were in Shirmeck?

A I could not say: I could not tell you the accurate date. The last time when I performed a vaccination there was at the time when the influenza vaccinations were made -- must have been in 1943, the late fall of 1943.

Q And, as an expert, you testify to the Tribunal that vaccinating these 28 persons with the murine vaccine was a real contribution to fighting the possibility of a typhus epidemic in Shirmeck; is that right?

A I did not say that in that form, did I; I don't think so.

Q I am at a loss to understand how you could feel that the vaccination of 28 people in Shirmeck, and 200, or I think you said 80 in Natzweiler, could have any effect whatever on the likelihood of a typhus epidemic. There was some 12,000 inmates in Natzweiler, was there not, Professor?

A There were a great many, but I explained yesterday already that first I had to slowly because the laboratory means at my disposal I

could not manufacture a sufficient amount of vaccine. I regretted that very much, of course, and for that reason my work took very long.

Q What was the nationality of these 100 inmates that were shipped from Auschwitz?

A The nationalities, I could not tell you; later I was informed that they were Gypsies.

Q Do you not know the general appearance of a Gypsy? Is he dark in color or do you not think you would recognize one if you saw a Gypsy?

A Yes, but not all Gypsies look alike. If it is the real, the typical Gypsy, then one could say that, but I have to say that I am not enough of an Anthropologist, and if I am confronted with 80 or 100 people, it is not so easy to tell whether they are all Gypsies, Poles, Slaves and so forth, Hungarians, or Italians, which were amongst them, or other dark haired types. I could not make that distinction.

Q Did you personally examine these 100 inmates shipped in for your vaccinations? The first 100 in November or the first of December, 1943?

A Well I looked at the first subjects that were sent to me, and one could already see that they were in such a bad condition that vaccinations regardless of what kind, could not be applied anymore?

Q And, 18 of them died on the transport; is that right?

A That was what I was told.

Q That is rather sordid isn't it?

A Yes, indeed, and I also made no secret of my opinion of that when I spoke to Hirt.

Q You knew that these 100 men had been shipped in on your request, didn't you?

A No, I did not know that before, because I was of the opinion that they were or would be inmates who were already in the camp. The background conditions -- for instances, that people had been brought from Auschwitz to Natzweiler for this purpose I did not know.

Q But, you knew it after it happened, didn't you?

A After it happened, after I heard about it, I knew it, yes.

Q And, you requested another 100 and they were also shipped in weren't they?

A That I could not tell you whether they were shipped or whether they were inmates who were already in the camp. I have no knowledge of that. I could not tell you.

Q You knew that in the first case, but you don't know in the second case; is that right?

A No, I don't know it.

Q Well, this second 100 you examined them, didn't you?

A I looked at them, yes. I examined them together with the prison physicians, and we found out that they could be vaccinated.

Q Some of them were Gypsies, were they not?

A According to my recollection they were of many different nationalities; not only Gypsies, no, no.

Q Some of them were Poles?

A Well, today it is hard for me to tell in detail what nationality they belonged to; it is quite impossible now.

Q Witnesses from Strassbourg testified here that you tended to justify your work in the camp by saying that no Alsations were used, only Poles, but I want to know whether you remember if there were some Poles among the persons you were going to vaccinate?

This must be a mistake. You mean Schirmeck; don't you? The questions was discussed in connection with the inmates vaccinated in Schirmeck, not in Natzweiler.

Q Well, you may be correct. Were any Poles in Schirmeck?

A There were. Not all of them were Poles, at any rate. I noticed — I could speak, I conversed with some of them. At any rate, they belonged to different nationalities, they were not all Poles.

Q Did you make the remark attributed to you by several of the witnesses here?

A No, I did not make it, no.

Q It strikes me that you were a bit persistent with your vaccinations when you ordered hundred men after the first 100 turned out to be in bad shape. Was there any reason why you could not tell the camp commander? "Let us use 100 men right here; right here in the camp now. All I want to do is vaccinate them to protect them from typhus. Why do we need 100 men shipped from Auschwitz?" Did you say anything like that?

A No, I did not do that; and, I told you already that I did not know about the transport from Auschwitz before it had arrived, and even if there had been new arrivals from Auschwitz, as far as I know they were large transports coming in all the time from Auschwitz and from other camps, and they again were camp inmates, and just as vulnerable as the others in the camp.

Q You testified yesterday that the persons working in your laboratory were vaccinated against typhus and you mentioned some danger in connection with the laboratory work. Will you tell the Tribunal what that danger was?

A Well, when working with typhus, there is always the possibility of an infection brought about in the laboratory, and one has to take all precautionary measures to make sure that such an infection does not take place.

Q Did you pay your laboratory assistants a risk bonus?

A Yes, two assistants, employees of the laboratory who were particularly endangered were paid a bonus.

Q I thought you also testified on two or three occasions that you had no virus strains which were pathogenic to human beings; is that right?

A That is right.

Q And, what was the danger which arose to the laboratory workers?

A Well, that is from the fact that sometimes we do not know everything about the biological matter. Sometimes a strain might become

pathogenic for human beings, that is not excluded. In every laboratory one can make that observation once in a while. With all virus wherever they may be kept they may be kept and wherever they may appear it is quite understood that all precautions have to be taken, precautionary measure have to be taken.

Q But, you relied very heavily upon the fact that you had not pathogenic strains and you set that up as a big defense against the possibility that you carried out after-infection experiments with a virulent virus and you pooh-poohed the possibility that there was any danger to the test persons, and I am having some difficulty reconciling the great danger to the laboratory assistants, but no danger to persons who were subject to the vaccinations?

A I believe one cannot interpret this in that manner because sometimes even in the laboratory we are confronted with matters which we cannot quite control. Therefore, it is always better to be careful if one handles material of that kind than to be negligent.

Q But you excluded the possibility that any of your test persons could have been harmed in the slightest way by these vaccinations?

A In the preliminary experiments we could find that out and that is already the best test if that can be found out, whether there is a danger apparent or not.

Q Then you took the guinea pigs to Natzweiler to permit the inmates to breed them, is that right?

A That is correct and there was the chief of the hospital who was very much interested in animal breeding and I brought him mice, as well as guinea pigs, so that he could start his animal breeding.

Q You were short of rabbits and mice but not of guinea pigs, is that right?

A Yes, guinea pigs we would have needed considerably and we hoped to get more.

Q Professor, you testified yesterday and I quote the translation: "When I say 'subsequent infection' I am referring to subsequent vaccination with living virus vaccine, the third vaccination which I carried out in this group." Wasn't there any word which you could have used instead of "subsequent infection" to convey somewhat more clearly what you meant to do?

A I said yesterday already that the word "subsequent infection" which was used, but that it had nothing to do with the vaccination for the purpose of protection, but that a third vaccination was made in order to examine the degree of immunity or the fact of immunity and to make that distinction between these two actions I speak first of the real vaccination for the purpose of protection and I call the next vaccination the "subsequent infection."

Q And you think that the use of the word "subsequent infection" is better than, for example, than "Nachimpfung"?

A Yes, one could use the word "Nachimpfung" I believe since the same material is used. There is no basic difference and in medical literature the word "infection" or "re-infection" is also used in the sense of "Nachimpfung", subsequent infection. One does not have to consider that infection means something at any rate dangerous.

Q When you use in conjunction with the word vaccination or immunization the word "subsequent infection" which has something of a bit of color in it, doesn't it, Professor?

A No, I don't think one could say that.

Q Well you concede that the Prosecution's interpretation of the word "subsequent infection" as meaning infection with a virulent typhus virus of the type carried out in Buchenwald is equally consistent with the interpretation you put on it?

A If one interprets it that way, one has to consider what material was used for that subsequent infection. As far as I am informed now in Buchenwald and also in other places, an infection was carried out by human passage, that is with the blood of diseased persons, which is highly infectious, and with that blood human beings were infected. That is of course an entirely different matter than to take an attenuated virus and vaccinate with it.

Q You have to start with a fully virulent virus though, don't you, before you wind up with an attenuated virus, don't you, Professor?

A That is correct.

Q But you never had any such fully virulent virus, is that right?

A I had a virus strain which had been bred for a long time on the lungs of a rabbit but by Professor Giraud in Paris and which we continued to breed in a plant, and doubtlessly that was already an attenuated strain.

Q We can, of course, find out, I think, rather easily what the serums of this strain you obtained from the Pasteur Institute was. Let me put this question to you: Do you think it would have been safe to have taken some of the blood from some of the guinea pigs carrying this strain when you first received it and inject it into a person?

A I don't quite understand the question. May I ask you to be kind enough to repeat it?

Q Suppose you had injected a human being with the strain which you received from Giraud would it have resulted in a serious typhus illness or not?

A That again is a question, Mr. Prosecutor, which is of a more hypothetical nature, I think the great probability is that it would have come to a mild infection but I could not say with a hundred per cent certainty, but the experiences which we have gained indicate that it would have been only a mild case. That is a hypothetical question again which I can only answer in a hypothetical way.

Q Well pursuing the hypothetical question further, you insist on testifying to this Tribunal that you could not have possibly brought on a serious case of typhus illness if you had tried to do so, is that right?

A That is correct, because I had tried out that material already in experiments on ourselves and the quality of being apathogenic to humans was proved by that.

Q Do you remember document No. 127, that is your letter to Hirt of 27 June 1944, asking for an additional 200 persons, that is Prosecution Exhibit 306?

A Page 96, to Professor Hirt.

Q Now you had already carried out your experiments in December and January, 1943 and 1944, respectively, on 80 persons, is that right?

A Yes.

Q Now in June again you asked for an additional 200 and you stated,

however, in the subsequent inoculations with virulent typhus which are to be made for the purpose of testing the protective vaccine, one must count on sickness, particularly in the control group which has not received the protective vaccine. Why were you pursuing these tests? You have explained that as being nothing more than a subsequent vaccination. You carried out such experiments on the 80 persons in the winter of '43 - '44. Why did you want another 200 to carry out the same experiments?

A. This is no longer an experiment as it is usually understood here in this court room, but a series of vaccinations with a vaccine that is already known. That I requested another certain number of people to be vaccinated is explained by the fact that my possibility for production were limited, but here in this case we believed that we would be able to manufacture sufficient vaccine for 200 persons.

Q. Well, but you draw the distinction in this letter between the experiments you had carried out so far and the one which you proposed in this letter, yet I put it to you that according to your own testimony here now your plans were no different at all. You simply say that again you were going to carry out subsequent vaccinations not subsequent infections. You had already done that on this first hundred, the first eighty experimental persons. What was the reason for doing it again, Professor?

A. I stated already that my intention was if possible to vaccinate the entire camp for their protection, but at first I could only take 200, but since here again I intended to make scientific observations concerning the compatibility of the vaccines, I made these two distinctions here, and the one group which again should be vaccinated on the arm by scarification, I designated as subjects of control inoculation, and I said also that I know that in other places work was done on typhus vaccines. Therefore, I mentioned again these control inoculations in order to make it clear. These are the only reasons.

Court I

Q. This is nothing then but a repetition of what you did on the 80 experimental subjects?

A. I explained that already yesterday, it was the same as the vaccinations I carried out in the winter of 1943-44.

Q. Now, did you actually carry out any vaccinations after the vaccinations in December and January on the 80 persons? Did you carry out any more vaccinations in Natzweiler?

A. No, I did not. There were no more vaccinations carried out.

Q. You didn't vaccinate anyone during the course of the epidemic? I should have thought that they would have been eager to let you vaccinate those people. Here they were crying for you to come in when there was no epidemic to keep an epidemic off and then they get an epidemic and you vaccinate nobody, how do you explain that?

A. No, these people were no longer vaccinated and I explained that already yesterday that in the summer I had to make so many official military trips that I could not carry this out anymore.

Q. Then you made no vaccinations on anyone in Natzweiler after January 1944, is that right?

A. There were no vaccinations carried on after these vaccinations in December 1943 and January 1944.

Q. How did they combat the epidemic?

A. The epidemic was combated by delousing all the inmates as possible and the request of the camp physicians I myself saw to it that they received the equipment to do that. I know that the capacity of the decontamination equipment was too limited so that due to the impossibility

Court I

of a perfect delousing the epidemic was increased. Then our institute extended that equipment and transferred it to Natzweiler. That increased the capacity to delouse inmates to twice the amount and that prevented many typhus cases.

Q. When had you completed this third vaccination in the series on the 40 test persons in December and January?

A. That must have been during the course of January, the precise date I can not tell you any longer.

Q. How far separated was one vaccination from the other?

A. Well, the two first vaccinations were made at an interval of approximately one week. The third one which was designated as subsequent infection four weeks after the last vaccination.

Q. And was this third vaccination any different from the first vaccination except that you applied it through scarification rather than injection?

A. There was no other difference except that, of course, the amount used for scarification was smaller than that used by injection.

Q. Did the persons get sick when you made the first injection in the series of three?

A. I don't quite understand that question. After the first injection of the series of three what injections?

Q. Did your experimental subjects get ill or sick after the first vaccination of the three which you gave the 40 test persons?

A. The test persons received only one single scarification on the arm. That was only the simple vaccination made by one scarification.

Court I

Q. I thought we had two groups, the group of 40 which received 3 vaccinations in a series, the first two being given by injection, the last one being a scarification vaccination and at the same time the 40 control persons were given a similar scarification vaccination, is that right?

A. Yes.

Q. That's all I wanted to know. Now then, when you gave the first vaccination to the 40 persons, disregarding the control persons now, did they get sick?

A. They got the normal reactions of a vaccination but they didn't get typhus.

Q. Well, why do you draw a distinction in your letter of 27 June that one must count on sickness in the control group. The control group in this case got nothing more than the other group - so why draw the distinction between sickness in the control group as compared with the immunized persons? You didn't give this group anything more serious than you gave the other group you vaccinated, indeed you gave them something much less serious, as compared with the three times. Now, why was there sickness in the control group after one scarification vaccination?

A. This morning I have already explained that that letter was read by laymen and probably decided upon by laymen, and here in mentioning the normal reactions to be expected after the vaccination I spoke of sickness but it would be quite erroneous to assume that I meant typhus. As I have said already this morning I just referred to the normal reaction after vaccination.

Q. Then the control group didn't get any more severe reaction than the ones that were not controlled, did they doctor?

A. The reactions as far as I can still recall them were no more serious than with those who had previously been vaccinated by injection.

In other words, no signs of a manifest typhus disease.

Q. So you really were saying something that was utter nonsense when you talked about sickness in the control group? Weren't you?

A. How was that, please?

Q. I say, your talk of sickness in the control group is just nonsense then, because there can be no distinction here between your control group here and your other group?

A. If I understand you correctly, Mr. Prosecutor, I don't know if I understood that question correctly. There were in the first group reactions to the vaccination among the first 40 that had been vaccinated and such reactions of vaccination we also had in the second group of 40 that were vaccinated, but we had no cases of typhus.

Q. I am agreeing with your proposition, Professor, that you didn't subsequently infect anybody even though you say so. But, I can't for the life of me understand how you can speak of a control group in this letter and speak of expecting illness in the control group when the control group didn't get any thing more than a vaccination. The other group got a similar vaccination and two others, yet you are indicating to, Mr. Hirt, that we can expect some illness in the control group. That's nonsense, isn't it?

A. No, that is not nonsense. I have explained yesterday already what the purpose of that control group was. That was with reference to serological reaction which we wanted to examine in connection with those who had been vaccinated various times. I said already this morning that already after the vaccination the agglutination titer in the serum were reduced and we wanted to put these two groups into relation to each other as far as these values were concerned. And this group which was vaccinated by scarification was a comparative group in the sense of a control test for the serological reaction.

And, if I mention cases of sickness in this letter then I meant the normal effects of the vaccination.

Q. Professor, we are having great difficulty getting on the same ground. Let me put one final question to you. Was there any reason to expect any more serious reaction to the vaccination in the control group as compared with the other group?

A. No.

Q. So, there was no reason whatever for you drawing Hirt's attention to the possibility of sickness in the control group? Isn't that the point, Professor? There is no point to it unless you really intend to infect the control group with a virulent virus as you stated?

A. No. I beg your pardon, Mr. Prosecutor. I have already told you that this sickness was effects of the vaccination, normal reactions of the vaccination and I had heard from Lolling, chief physician of the camp, specifically that it was not desired that people were lost for work. Therefore, I covered myself and said it is possible however that such reactions of the vaccination will occur and if I have to repeat again I used the word sickness in this document in order to express that reactions of the vaccination will have to be expected. I am sorry but I have no other explanation than this.

Q. Let me put a document to you before we adjourn. Do you read French? Professor?

A. Yes a little, but I do not speak it fluently but I know it sufficiently.

Q I am putting to the witness Document NO 807, Prosecution Exhibit 185. Professor, do you see the point at which I have made pencil marks on the photostatic copy of the document?

A 25th of January, 1943?

Q One minute, Professor.

DR. TILP: Mr. President, I only ask, Mr. President, where the document is that was put to the witness. I should like to read it also and be able to compare it. Mr. Hardy told me the document book and did not give me the page of the document. I should like to know where the document is located unless it is a new one.

MR. McHENRY: It is an old one. It can be found in the skeleton collection document book. Document Book # 7. It is on page 23 of the English document book, Document NO 807, Prosecution Exhibit 185. This is primarily a book of pictures concerning Hirt's skeleton collection, but there are also in this document extracts taken from original German records found in the Natzweiler concentration camp concerning, as the prosecution says, Haagen's typhus experiments, and I am now asking him to read three excerpts which appear in this document.

DR. TILP: I don't believe, Mr. President, that there is a French document in our document book. Mr. Haagen said that his French was not fluent and that he only knew French, and I think it is very dangerous to submit to a witness a document in a language in which he is not quite fluent. Mr. McHenry is no doubt in a position to submit that document in German and I should like to ask him to do so.

MR. McHENRY: I assume that defense counsel has the document in German.

THE PRESIDENT: Evidently the document is not immediately available. Could you read that portion of the document which you refer to in English and have it translated into German?

BY MR. McHENRY:

Q Very easily and if the witness will follow either the English or the German he can tell us if it is correct.

The first extract that I wished him to read is taken from a report of the camp doctor of Natzweiler concentration camp, File 1AB0344. Then appears the initials "KR" obviously standing for Dr. Krieger whom the witness testified he knew. Dated Natzweiler, 1 February 1944. It reads:

"Experiments at the Ahnenerbe experimental station are still not under way. One of the 69 human experimental prisoners (Gypsies) died with pleural myshyma..." I can't make that out -- "... during the period covered by the report. Forty Gypsies received prophylactic inoculation for a typhus experiment."

Were you able to follow that, Professor? That's the excerpt I checked -- 1 February 1944.

A 1st February 1944 -- "experiments in the experimental station Ahnenerbe". Is that it?

Q That's it. That's where you were working isn't it, Professor?

A I did not work in the Ahnenerbe.

Q Did you know where the Ahnenerbe station was in Natzweiler?

A In Natzweiler I cannot remember having seen the special designation Ahnenerbe when I worked there.

Q Then you can't testify you didn't work in the Ahnenerbe, can you, Professor? Have you found this excerpt?

A Yes, yes, I have it here.

"Experiments in the experimental station Ahnenerbe have not yet started. Of the 60..." That is very difficult to read here. "Of the 60 experimental subjects, inmates, Gypsies, one died from pleural myshyma in the meantime. 40 Gypsies were vaccinated for the purpose of a typhus experiment."

Q If the Tribunal wishes to adjourn, we will continue with this document tomorrow. I'll ask that the witness pass it back.

THE PRESIDENT: The witness will return the document.

The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

(A recess was taken until 0930 hours, 20 June 1947)

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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 1 TRIBUNAL I
U.S. vs KARL BRANDT et al
VOLUME 26**

**TRANSCRIPTS
(English)**

20-24 June 1947 pp. 9621-10005

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 19 June 1947. 0930-0945, Justice Seals, presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in Court?

THE MARSHAL: May it please Your Honors, all the defendants are present in the court.

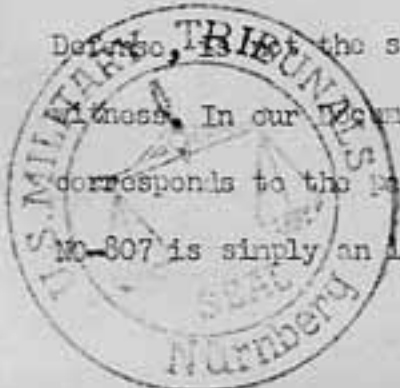
THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in Court.

I was under the impression that counsel for Defendant Hoven had requested that he be excused from attendance today. I don't know whether he desires to be excused or not. The court gave him permission to be absent to consult with his counsel. I don't see his counsel present but when he comes, he may state his wishes in the matter.

Counsel may proceed.

MR. McHANEY: May it please the Tribunal, Professor, at the end of the session yesterday, I put to you certain excerpts appearing in Document NO-807, which was Prosecution Exhibit No. 185.

DR. TIPP: Mr. President, I already said yesterday that we do not know about this Document that Mr. McHaney is about to put in. I brought No. 9 with me and I ascertain that Document NO-807, as put in by the Defense, is the same document as Mr. McHaney is putting to the witness. In our Document Book, Document NO-807 is on page 18, that corresponds to the page number in the document book. This Document NO-807 is simply an interrogation of Hauptsturmfuhrer Kramer before a



military court in Strassbourg on 27 July, 1945. Mr. McHaney, however, has put an entirely different document to the witness under the Number NO-807 or at least a part of another document, a document which the defense does not have. I do not know what the reason for this is, but I reiterate the defense is not acquainted with this document Mr. McHaney is putting to the witness under No. NO-807. If Mr. McHaney wants to discuss this document here, either he must give it his own exhibit number or at least, according to the rules of procedure, he must make a translation of this document available to us. I therefore object to the admission of this document, which the Prosecution has. We have not received either the French or the translation.

MR. MCHANNEY: If the Tribunal please, the document which I have put to the witness, NO-807, was introduced as prosecution exhibit No. 185. It consisted primarily, and it was offered primarily, of pictures of the so-called Jewish skeleton collection made by French authorities when they captured Strassbourg. This book also contained a sworn statement taken from Camp Commander Kramer of the concentration camp Natzweiler and additionally contained excerpts taken from captured German documents in Natzweiler. Unfortunately, when the document was translated, for some reason the Translation Department failed to translate in full the small excerpts which appear in this. They are made reference to in the translation, which the Tribunal has, but they don't actually translate them. Apparently the same deficiency appears in the German mimeograph copy. Of course, they could not very well copy the pictures. So obviously all that appears in the German copy is the certificate by the French Government plus the affidavit by Kramer, however, I should have thought that a photostatic copy of this was furnished to the Defendant's Information Center. In any event when I complete examining the witness on this document, I shall be very happy to give Dr. Tipp my photostatic copy here.

THE PRESIDENT: What is the book and page number in which this document is found?

MR. MOHANEY: Document book 7, page.....

MR. TIPP: Document book 9, isn't it?

MR. MOHANEY: I don't think so, it probably originally was marked document 9. I think we remarked it No. 7. It is the skeleton collection document book.

THE PRESIDENT: On what page of the document book is it?

MR. MOHANEY: It appears on page 20, it is the last document in the book.

THE PRESIDENT: You state, counsel, that this complete translation of the document was furnished to the Defendant's Information Center?

MR. MOHANEY: No, Your Honor, I said I assumed that possibly a photostatic copy was furnished, but I am not certain of that. I merely make the statement on the basis of the proposition that we did attempt to furnish them with photostatic copies of each document, I don't know and it may be this was overlooked. I don't state that it was furnished. Anyway, I will be glad to give them my photostatic copy when I am finished with the witness.

DR. TIPP: Mr. President, I am sorry, but this statement of Mr. McHaney is not sufficient. In our document book according to the running page numbers there is a Document 807 but this is merely an interrogation of Hauptsturmfuehrer Kramer and nothing else. There is reference, to be sure, to a few pictures, but I don't place any importance on these pictures; I don't need them. However, I do want to say that part of the document that concerns itself with typhus, and which Mr. McHaney discussed with the witness yesterday, is not contained in our document book at all. I could not know that the prosecution understands, under the number 807, something quite different from what the defense received under that number. That is the reason why I am objecting to this.

Perhaps Mr. McHaney would be so kind as to show me the original document that he intends to discuss with the witness.

MR. MC HANEY: Does the Tribunal have the translation of this document before it?

JUDGE SEBRING: I don't think so.

THE PRESIDENT: It is very incomplete.

MR. MC HANEY: If the Tribunal please, I can explain it briefly. Do you have the document that was given to you - the translation?

THE PRESIDENT: We have a very sketchy document.

MR. MC HANEY: Well, if the Tribunal will turn to page 2 they will see translations of captions of photographs. On that list there are some 14, 17, 21 pictures. Immediately under the translations of the captions you will find "I-A", "II-B", "III-B". "Note: Documents found in the Struthof Concentration Camp." That is the French word for Natzweiler Concentration Camp.

I-A is a list of phone numbers. They did not list the phone numbers in this translation; they appear in the original.

II-B is an extract of the monthly report from the camp doctor saying that experiments have been done on sixteen gypsies and that three deaths have resulted. I have now been in the process of putting certain of these extracts listed here under II-B, which I am quite ready to confess

were unfortunately not translated, but they do appear in the original.

While defense counsel has undoubtedly been taken by surprise, for which we are quite sorry, nonetheless I don't think that is sufficient reason for not permitting the prosecution to put these documents to the witness.

THE PRESIDENT: Will the Secretary ascertain if a photostatic copy is available in the Defense Information Center?

DR. TIPP: Mr. President, what Mr. McHaney says is true, and I can add the following. In our document book there is contained only the interrogation of this Kramer before the French military court, but not the first page of the document which, as I see from the photo copy, contains excerpts from some report on the part of the camp doctor. It is precisely this part of the document which we do not have in our document book, that Mr. McHaney is putting to the witness to cross-examine him on.

I can only reiterate that the document that the prosecution gave us is not a true copy of the document he is about to put to the witness. There is an essential part of this document missing in our version. I don't think that saying this was a mistake is sufficient. If the prosecution has made such a mistake, it must abide by the rules of procedure and make available to the defense the part of the document that is missing before putting it to the witness. That is the ruling of the Tribunal, and I do not believe there is any necessity for deviating from that ruling.

THE PRESIDENT: If you are allowed five minutes to examine the prosecution's copy of that document, could you familiarize yourself with it - five minutes or ten minutes?

DR. TIPP: That would suffice, yes, but of course I should like to read the photo copy before Mr. McHaney cross-examines the witness on it.

THE PRESIDENT: The prosecution has no other subject of cross examination that would take time until the morning recess when counsel could examine this document?

MR. MC HANEY: Well, we have further cross examination, Your Honor,

and I will be glad to proceed. If it doesn't take him until the recess, perhaps I can put this to him. I would prefer to put this document to him before going very much further.

THE PRESIDENT: I understand, but defense counsel's position is correct. They are entitled to have an opportunity to examine this document before the witness is cross-examined concerning it.

MR. MC HANEY: That is quite true, Your Honor. I will let him have the document now. As soon as he has indicated that he has read it sufficiently, if he will turn it back to me I will put it to him.

THE PRESIDENT: Very well.

BY MR. MC HANEY:

Q. Herr Professor, I had discussed with you yesterday Document NO-127, Prosecution Exhibit 306. That was your letter of 27 June 1944 to Dr. Hirt.

JUDGE SEBRING: What book, Mr. McHaney?

MR. MC HANEY: Book 12, Your Honor.

BY MR. MC HANEY:

Q. Do you find that document, in which you ask for—

A. (Interposing) Yes, I have it.

Q. --- in which you ask for 200 experimental persons, 150 to be used for protective vaccines and 50 for control inoculations?

You will recall that on your direct examination you somewhat ridiculed the testimony of Fraulein Schmidt on the ground that she was talking of 150 to 200 experimental persons, whereas you said in fact that you experimented only on some 80 in December and January of 1944. I suppose you will concede, as a hypothetical proposition, that, if you in fact carried out the experiments which you speak of in Prosecution Exhibit 306, then Fraulein Schmidt's testimony is rather accurate under that hypothetical proposition, is it not, Herr Professor?

A. I don't believe you have to put that as a hypothetical question; I believe you can put it as a direct question because these vaccinations of the 200 people were never carried out.

Q. And there were no vaccinations of any kind on any inmates of the Natzweiler camp after January 1944, is that correct?

A. Yes.

Q. Let's turn to Document NO-131, Prosecution Exhibit 309, in Document Book No. 12.

THE PRESIDENT: At what page, counsel?

MR. MC HANEY: Page 98, Your Honor.

BY MR. MC HANEY:

Q. You will find that that is a letter from Kahnt to you dated 29 August 1944 in which he asks you, under paragraph 3, whether the typhus epidemic prevailing in Natzweiler is connected with the vaccine research. Having read Rose's testimony, I suppose you remember that he stated that he also sponsored this letter signed by Kahnt and, as a matter of fact, had drafted a somewhat longer letter to you on this subject.

I am asking you now how Rose and Kahnt could possibly have thought that your vaccine research in Natzweiler had anything to do with the epidemic.

A. I cannot say what motives these gentlemen had. I assume that for reasons of precaution they asked me this question. However, let me remark that a great number of the first cases of the disease did not come from the camp itself but from outside, from outside camps which did not have any hospitals of their own, so that the Natzweiler camp had to concentrate the treatment of all sick persons in itself.

There can be no connection between this and my vaccinations because, first, while the vaccinations were being given, the vaccinated persons did not come into contact with the other inmates; and secondly, they were completely free of lice; and thirdly, transmission of typhus is possible only during the period of incubation and in the very first days of the disease. Since no typhus cases occurred among those vaccinated, I believe this problem is solved. These were exclusively spontaneous cases of typhus that broke out.

Q. You say that your vaccinated persons did not come in contact with any of the other inmates. I assume you are speaking of the persons vaccinated by you in December of 1943 and January of 1944, is that right?

A. Those are the people I am talking about, yes.

Q. And where were they confined?

A. They were accommodated in the hospital, as I believe I have already said at another time.

Q. You had 40 in one room and 40 in another room?

A. There were 80 in all who, as I remember, were all accommodated in one barracks.

Q. And how long were they confined?

A. Until I had tested the serological reaction and ascertained the degree of immunity.

Q. And when was that?

A. I cannot give you the precise date, of course, since I have no documents here, but I should say it was at the most four weeks after the vaccinations.

Q. Well, in other words, certainly during the month of February you completed that?

A. I could have been January or it could have been February.

Q. Now, going back to this inquiry of Kahnt, as I understand your testimony, you don't know why they asked you this question and you can't think of any reason other than precaution, is that so?

A. It think they did it for reasons of caution, yes.

Q. Now, Rose said that he thought your vaccine might have suddenly become virulent or pathogenic for human action and cause cases of typhus. That is ridiculous, is it not?

A. That is not ridiculous, but the fact that no typhus cases occurred proves that this was not the case.

Q.- Well, you reported to the Chief of the Medical Service of the Luftwaffe and to Herr Rose that you had carried out these vaccinations and you gave them the results of your test, did you not?

A.- I issued a report in the form of a manuscript, as I described it yesterday.

Q.- And you of course reported in this manuscript that there were no cases of illness, and you gave the results of your vaccination tests and reported, I suppose, that they were successful; is that right?

A.- That's right.

Q.- You did all of this before June, 1944, didn't you, Professor?

A.- I can't tell you the date for sure, but it is in the documents here, and I think it was May. It could have been June when this manuscript was submitted.

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Q.- At least they had it before they wrote you this letter on 29 August 1944, and I ask you again how any reasonable person could write you and ask you if your tests had caused an epidemic in Natzweiler when they already had your report in hand that your vaccine experiments had been successful and that there were no illnesses, and I state again to you, it is a little ridiculous that Roas would state on the stand that he thought your typhus vaccine had become pathogenic. If you vaccinated these persons in January, completed your examination in February, and made a report in May or June, how is it that somebody can testify that he thought your vaccine had become pathogenic and possibly had something to do with an epidemic?

A.- Mr. Prosecutor, I have already told you that no single case of typhus occurred in those who had been vaccinated --

Q.- Just a minute, Professor. I am not accusing you of having started the epidemic at Natzweiler. I am asking you how Rose and Kahnt and the Chief of the Luftwaffe could write you a letter in August 1944 asking you any such question as that when you had already reported to them about your vaccine tests in Natzweiler. They had already been

through for five months. How could they write you and ask you about such a thing as this?

A.- Mr. Prosecutor, I have already said that I do not know their reasons and that the only explanation I can give is that these gentlemen were very cautious and careful and wanted me to confirm the fact that the epidemic bore no relationship to my vaccinations. I can give you no other explanation.

Q.- Let's look at your letter in response of 19 September 1944, Document No. 132, Prosecution Exhibit 310, on page 99 of the English Document Book. In response to this rather startling inquiry and, at least to the Prosecution, unreasonable inquiry, if we assume the truth of what you have testified to here, you simply write back and state that you tests of the vaccines did not cause the epidemic. What reason can you give us for not having told them that you had conducted no vaccinations of any kind since January, 1944?

Q.- I probably put it this way, because in Document 309 there was no inquiry as to whether I had undertaken the second series of vaccinations, so I of course referred to the fact that we had carried out vaccinations and right here that there is no connection between the cases of typhus at Natzweiler and the examinations dealing with the typhus vaccine that is to be tested.

Q.- But, Herr Professor, I think you will agree that a reasonable person might draw the conclusion from Kahnt's letter to you of 29 August that they were under the impressions that you were still carrying out examinations of some sort in Natzweiler, examinations contemporaneous with the epidemic.

A.- However, no such investigations were carried out, and I do not know what could have given these gentlemen this impression. I think this can be seen simply from the fact that I did no reporting of any sort.

Q.- It didn't occur to you to tell them that their inquiry was baseless because, firstly, you hadn't conducted any vaccinations at Natz-

weiler since January, 1944, and, secondly, that in any event they certainly had no cause for alarm because you had no pathogenic virus to infect anybody if you had wanted to. Why didn't you tell them that?

A.- I made my letter so brief as it is because the matter was so crystal clear to me that I didn't feel that any further explanations were necessary.

Q.- You have testified that General Stabsarzt Schroeder was in Strasbourg, in the latter part of May, 1944. Didn't you tell him anything about this epidemic and give him to understand that if he had any fears about it that you work had nothing to do with it?

A.- When Professor Schroeder was with me in Strasbourg that was at the end of May. At that time he certainly knew nothing about this inquiry, which is dated August, and regarding such matters as had no connections with my vaccinations, there was no discussion. I can't imagine what interest Prof. Schroeder could have had in that epidemic in Hatzweiler.

Q.- Well, we won't argue about that very much. It might have occurred to him that since there was an epidemic there, it was a good opportunity for you to test your vaccine. That seems reasonable, doesn't it?

A.- I said yesterday that I had no further opportunity to carry out vaccinations. Of course, I should have liked to immunize the camp as soon as possible, that was my chief task but external circumstances prevented that.

Q.- You had enough vaccine in June, 1944, to ask for another 200 people. Why didn't you use that?

A.- Because I had no time. I explained that yesterday. Through the events of the war I was kept away from Strasbourg so much of the time that I had no time to carry out these vaccinations.

Q.- You don't remember the precise date in May on which Schroeder made his visit, do you?

A.- Let's say around the 25th of May.

Q.- And you did discuss with him your typhus vaccine work?

A.- I think we talked about that, too, as far as I recall. But primarily we discussed the business of my acquiring experimental animals, and we discussed general scientific questions that might have interested Prof. Schroeder.

Q.- On the animals, do you use mice in carrying out laboratory experiments with Rickettsia prowazeki virus vaccine?

A.- No, for that you use guinea pigs.

Q.- You use mice only with the murine vaccine?

A.- That's right.

Q.- Now, if you were carrying out preliminary laboratory tests with a vaccine preparatory to using it on human beings, what sort of experiments would you carry out on animals to satisfy yourself that it was safe to use this vaccine on human beings?

A.- This question is of such a technical nature, Mr. Prosecutor, that I am afraid that I cannot make it immediately clear to a layman. I believe we should have to discuss this with an expert. However, I shall make an effort to make it clear. In an animal you can carry out important investigations and observations. For example, you can observe the immunizing capacity of a vaccine and you can test it. The test for tolerability of the vaccine can only be carried out on human beings. That is a general fact, because the animals' reactions are entirely different from those of a human being. Permit me to give you an example. Let's take the variola vaccine, namely, the virus with which we vaccinate persons against smallpox. This vaccine virus causes in human beings only slight symptoms of illness. Every one of us, including you, Mr. Prosecutor, have been inoculated against smallpox several times and you know the typical symptoms, and if we take this vaccine, which is not dangerous and nonpathogenic for human beings and inject it into rabbits, they fall deathly ill, depending on how they are inoculated, If

we rub this vaccine virus into the skin of the rabbits they suffer a very grave skin disease, of which they finally die, because the infection finally embraces their whole bodies. If we inject the vaccine into their brains they fall ill of a very serious inflammation of the brain, and if we inject it at other places as for example in the testicles, they have other serious inflammations. Let us take the yellow fever virus, which is not dangerous for human beings. If we inject it into mice they die of inflammation of the brain. If we take the virus of psittacosis, which is a very dangerous virus, we observe the parrot has symptoms in his abdominal organs, but if the germ is given to a human being, his symptoms take place in the lungs and he gets a serious pneumonia. From all of these examples you can see that the affinity of the germ for the various species is quite different in the case of human beings and animals. Now that applies to the vaccinations in question. The last proof of the tolerability of a vaccine can only be carried out on a human being, and that is recognized in all science. These are roughly the biological reasons.

Q I see. Really, I didn't ask you for the reason why. And while you have given us a very interesting talk for five minutes, you haven't told me how you determined in the case of your living virus vaccines that it was not going to kill the first person you inoculated with it; and I also suggest to you that — and I think I am correct without being a technical expert — that murine typhus and Rickettsia prowazeki are pathogenic both for animals and for human beings; and while there may be a difference in reaction, I might say to you that I would have some hesitancy in letting you vaccinate me with a living virus vaccine after you had inoculated a mouse or a guinea pig and they had died; I don't think that you could persuade me very rapidly that this laboratory test had simply proved that your virus vaccine was pathogenic for animals but you could guarantee me that it wasn't going to kill me. Do you get the point of my inquiry, Professor? I want to know how you satisfied yourself that you weren't going to seriously damage or kill some of these test persons by your laboratory experiments on animals?

A This final proof takes place by the first inoculations of volunteers. This is already the mutated virus which we test on volunteers, and in the case of prowazeki virus, I carried out the first inoculation on myself.

Q Professor, you must have satisfied yourself that even when you were using yourself as a test person that you weren't running a very large risk in killing yourself or putting yourself in bed for a few months. Now, didn't you actually conduct some animal tests on mice and guinea pigs from which you could draw some sort of conclusions about this?

A That is very difficult, because during the mutation of the virus, the components that make it pathogenic for animals do not disappear. That was so in the other cases also, and however, we have no hesitation in vaccinating human beings with it. Now, if after breeding the virus, I am persuaded that it has mutated and become attenuated and has become so it can be used for vaccinating, then I carried the

vaccination further. I vaccinate myself and others with it and ascertain its tolerability. If I ascertain in addition that it is not causing typhus, then proof of its efficacy has been proved.

Q Let me put just a hypothetical question to you. Suppose in the case of your Rickettsia prowazeki living vaccine, you vaccinated ten mice, or ten guinea pigs, and eight of them died. Now, would you walk out of the laboratory and inject that vaccine into the first human being that walked along and said, "I volunteer"?

A I should like to answer that question hypothetically. If you see a laboratory experiment that mice or rabbits already inoculated with vaccine virus die, would you then have the courage to have yourself vaccinated with that virus? I think that is the best way that I can answer your hypothetical question, namely, with another hypothetical question.

Q Well, I didn't get any hypothetical answer. You put another question, and I will answer you, "No, I wouldn't let you vaccinate me with this vaccine, after I had seen you kill eight out of ten animals." And I want to ask you if in spite of that fact you would vaccinate somebody with it? What is the answer, yes or no?

A Yes, I would because I, as a specialist, would know the background and basis and pre-conditions for this whole business.

Q And you are satisfying yourself that the virus is sufficiently attenuated, that is based upon the mechanical calculations concerning the number of animals, passages of virus, and statistical and mechanical calculations concerning the length of storage of the vaccine, is that right?

A Yes, but I have to repeat that the final testing can only be carried out on human beings, and as I have already said, on myself and other volunteers, and that is the way it was done.

Q And animal experiments don't help you out in determining the dangerousness of this new living vaccine?

A Animal experiments in these diseases, whether they are small

pox, typhus, yellow fever, or whatever — animal experiments do not help us in achieving the final goal.

Q Tell us who Meier was again. What did he do for you?

A Meier was the inspector in the National Medical Research Institute and worked for me to this extent, as he took care of the providing of laboratory animals. That was his main job. He also kept the accounts. That also was one of his main jobs.

Q He was killed in an air raid in 1944, was he not?

A Yes.

Q Was Meier in a position to know about your typhus experiments?

A No, because he was never in my laboratory. My dealings with him took place in my office, or in my outer office, or his office.

Q Your dealings with him didn't sufficiently concern the typhus experiments, really, for him to know what you were doing, is that right?

A No, he could not have known that under any circumstances.

Q On your vaccinations in Schirmeck again, as I understood it, those were just single vaccinations. You didn't carry out multiple vaccinations as you did in Natzweiler?

A That is so, and yesterday I told you the reasons.

Q You did not carry out the 1, 2, 3 vaccination series in Schirmeck?

A No, in Schirmeck I vaccinated only with the murine vaccine, because at the time my scientific knowledge hadn't progressed so far.

Q And you were all through with your vaccinations there in May 1943?

A May 1943, yes.

Q The Ibsen vaccine from Copenhagen about which the defendant Rose wrote to you was a murine vaccine, was it not?

A It was a dead murine vaccine, yes.

Q And it had already been tested for its compatibility on human beings, had it not?

A I do not know how the Ibsen vaccine was tested, and do not know that well enough to be able to tell you any details about it. I

myself have had no experience with that vaccine.

Q Well, you will recall that you got a letter from Rose on his trip to Copenhagen. This was apparently in the latter part of September, 1943, you remember that?

A Yes, yes.

Q And you will recall -- that is Rose Document No. 22. That is in Rose Document Book No. 2. I don't -- well he states in this letter, and I am quoting -- I will pass it up to you so your defense counsel won't object, and you can read it. I marked the passages on Page 17 of the document book, and you can read it either in English, or I suggest that you read it in English and they can translate it into German. It appears in English there.

A You want me to read paragraph 4?

Q I want you to read the paragraph I marked in pencil on pages 17 and 18.

A Yes. "The testing of the vaccine on human beings has heretofore caused no more serious reactions than were expected. In view of the experiments so far with such a strong concentration, the reactions correspond practically to those in the case of the four vaccines that were used in the Wehrmacht. Nevertheless in animal experiments, the liver vaccine proved itself vastly superior to the lung vaccine; whereas the lung vaccine when tested proved itself..." There must be a typographical error here.

Q Can you read it in English?

A "When tested white, w-h-i-t-e."

Q That must be a mistake. Just continue reading, I don't think that is the important part anyway. Did you read the part where Rose said, on page 18, that something to the effect about the efficacy of the vaccine?

A "Only if it has been tested first, which proved its efficacy by improvement in the mortality rate, and the liver vaccine if used in a similar way, protection is 100%; 30 vaccinated mice survived without exception, whereas 30 trial cases died without exception. We have had no extended experience regarding the efficacy of the liver vaccine in human beings. Two members of the laboratory staff contracted laboratory infections purposely with the Rickettsia-prowazeki, which led to very mild cases, and could only be subsequently ascertained by serological examinations."

Q That is quite sufficient. Now Rose told you, in effect, in this report, that the compatibility of this vaccine had been tested on human beings and that it had no stronger reactions than were expected and compared in that connection with the Wehrmacht vaccines in use; and he went on to show some interest in the question of the immunity or efficacy of the vaccine in warding off the disease of typhus, did he not, professor?

A First of all, I do not recall ever having had this report. It is possible, but I cannot remember. If I understand your question correctly, you are referring to the laboratory infections, are you not?

Q No, I am just trying to establish the fact and got you to admit it - I do not think it is so terribly important - that we weren't concerned with compatibility questions in connection with the Ibsen vaccine. As Rose tells you in the report, its compatibility was all right. It compared with the 4 Wehrmacht vaccines in use. He goes on to talk about the efficacy of the vaccine, meaning its anti-infectious properties. That is what he was interested in, wasn't it?

A That I cannot tell you. I cannot tell you what interested him. From the letter that I received I cannot see that. When I look at this document I see primarily its information on immunizing properties as regards mice.

Q Whether you knew about it or not, didn't you, in fact, propose that you would carry out infection experiments with the Ibsen vac-

cine? Didn't you tell Rose that you might do that?

A No. I never wanted to carry out any sort of infection experiments in connection with the Ibsen vaccine - never had that idea.

MR. McHANEY: If defense counsel has sufficiently perused the document I was about to put to the witness earlier, I would like to do so at this point.

DR. TIFF: I have perused the document sufficiently and have no objections to Mr. McHaney putting it now to the witness.

Q Now, Herr Professor, do you find a series of extracts under the letter 3-B? I think that is on the right hand side of the page 3-B. Now the first one of the series of 3 which have a pencil checkmark to the left - the date, as you will see is very faint on the photostat but it reads 25 November 1943 - that is the first extract which I have checked in that series of extracts and I would like for you to read that aloud.

A "In addition there is the experimental series that is to begin in the next few days which makes special demands in view of the medical activities that will take place then."

DR. TIFF: I have some misgivings about the formal admissibility of this document. If the Tribunal will look at the document it will see that from a document, without any inter-connection between them, individual sentences have been taken out and made into a new document. In my opinion, both the witness, who must answer questions about it, and the defense, have a right to see the whole document. He just read a passage that you heard and, as you have observed it, it is completely arbitrary for the prosecution to assume that this now research series, the Ahnenorbe research institute in Natzweiler, has anything to do with typhus experimentation. There is nothing to that affect in that sentence. We know from other documents that, let us say, Hirt or Bickenbach, at a time that we do not know, carried out a whole series of experiments in Natzweiler. In my opinion that document is admissible as evidence only if it is self explanatory, that is, if the sentences

which the prosecutor is going to discuss state exactly what experiments are being referred to. If I were to tell Mr. McHaney that these were Hirt experiments that were discussed in the sentences, I do not think he could prove the opposite. I believe that the document, in the way it is about to be put in, does not meet the rules of documentary evidence such as have been observed heretofore in this Tribunal. If the document is to be admitted, then let the whole document be admitted, but not just a few sentences that have been torn from their context and which are not comprehensible in themselves. Therefore I object to the admission of this document unless the document from where these sentences were taken is put in as a whole.

MR. McHANEY: I think there is a remote possibility that if I am permitted to put a few questions to the witness he will admit that these extracts pertain to his work. I have been trying to do that for about 30 minutes. These extracts here, I think, the witness may very well concede, concern his experiments.

THE PRESIDENT: May I ask the witness if he is aware whether or not that extract just read refers to any particular experiment and if so, what experiment?

A This is a note of 25 October 1942.

Q I did not ask you to read that one. I want you to read the next one and then tell the Tribunal whether it has reference to your activities in Natzweiler - the one immediately under that - the first one checked.

A Then the second paragraph. "At the examination which the professor carrying out the experiment conducted, only 14 gypsies could be found who were suitable. The number of gypsies affected with scabies could be reduced to 4. General measures to improve the general situation are under way." Isn't that the paragraph you mean?

Q Yes; and is the date - very faint on the photostatic copy - is the date 25 November 1943?

A That is probably connected with the first group of 100 gypsies

who have been mentioned in the documents here.

Q That is what I thought, professor, so this reference which reads "Only 14 gypsies were found fit during the examination by the professor directing the experiments" -- that concerns the 100 gypsies you got in the latter part of November 1943, doesn't it, professor?

A I am not 100% sure whether this has reference to me or someone else but if I am right, this is the group that I declared not suitable for vaccination.

Q Now will you read the next one? This is dated 1 February 1944. It is the very next one which is checked in pencil.

A I first have to find out whether I am able to read it. Yes. "On 12 November 1943 gypsies from Auschwitz were made available for the Ahnenerbe Experimental Station; after subsequent medical examination they were dismissed from the experimental station as unsuitable. Instead of them, on 12 December 1943, another 80...." or 89, - I cannot read this -"persons were made available from Auschwitz. Experiments are not yet under way." Shall I continue?

Q I am lost at that point but does that excerpt you read apparently apply to your second group?

A That is possible. This is simultaneous with my vaccinations.

Q Now do you find one there dated 1 February 1944 where it said "Experiments at the Ahnenerbe Experimental Station are still not under way. 1 of the 89 human experimental prisoners died with pleura empyema during the period covered by the report; 40 gypsies received prophylactic inoculations for a typhus experiment." Is that the way it reads?

A Yes. That is the last sentence and certainly refers to my vaccinations. Whether the first sentence also does, that I cannot tell you. At any rate, the person who died of pleura empyema can not have belonged to that group.

Q You say that they didn't.....You don't think that the 40 gypsies who received the prophylactic inoculations for typhus experi-

ments were part of the 89 mentioned in the same paragraph?

A I cannot say that for sure because I do not know what sort of prisoners arrived at Natzweiler from Auschwitz; but so far as the time element is concerned, there could be some connection. This sentence that mentions somebody who died of pleura empyema, however, makes no wonder a bit. That could not have had anything to do with my vaccinations. The last sentence is the one that refers to typhus vaccinations.

Q Will you read the next excerpt which is checked?

A That is 22 March 1944? "As stated in the last official report, after 2 typhus vaccinations in the experimental station Ahnenerbe there took place the actual typhus vaccination, after which temperature measurements and blood analysis were carried out."

Q Doesn't it say, actually, "As already reported in the last monthly report, the typhus inoculation proper was now performed at the Ahnenerbe Experimental Station after a two-fold prophylactic typhus inoculation? It doesn't say the third one was a typhus vaccination, does it, professor? Does he use the word "impfung" there?

A: Yes, it does - "the third and actual typhus vaccination was followed by taking of temperature and blood analysis."

Q: You contend that this third one was still another vaccination and not an inoculation of infection with typhus?

A: No, that was not an infection with typhus. In the course of my examination here, I have explained that at great length and explained why it couldn't have been.

Q: Now, did this extract apply to your experiments?

A: (H.T.) The expression "prophylactic vaccinations" as far as I know.

DR. THP: Mr. President, regarding the formal aspect of this document, something occurs to me. Mr. McHaney doesn't notice this because he can't follow the German interpretation and can't analyze the German document but this is a German document and there is mention in it of a "Typhus Impfung," typhoid vaccination. The German word for typhus is not "typhus" but "Flockfieber" whereas the English word "typhus" means typhus. If that is an original German document written by a German, I cannot understand how all of a sudden in such a document there is mention of using the word "Typhoid fever" and not the word "Flockfieber." I don't know that I have made this exactly clear. Since there is difficulty besides in the German language, perhaps we could see the English translation. The German original document is completely nonsensical for a German who understands German. The word used here is the word used for typhoid fever and not the word for typhus.

MR. McHANEY: This witness, after all, is supposed to be the greatest expert in the world, I understand, and he has conceded that the first tracts he read which are in the German language applies to his experiments. If he wants to quarrel about the language in them, he is at liberty to do so, but I would rather he would do it under redirect than now.

THE PRESIDENT: I didn't understand that the witness made the direct

admission of that which you state. The Tribunal will now be in recess.
During this recess period the document will be studied, and the Tribunal
is not yet advised as to the history of this document or where it came
from -- we haven't seen it -- or where it was found, or its history as
far as this trial is concerned.

The Tribunal will now be in recess.

(whereupon a recess was taken)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel:

DR. GALLIK: For the Defendant, Hoven.

Mr. President, I did not ask for the defendant Hoven today but for day before yesterday in the afternoon and he was excused and I talked to him.

THE PRESIDENT: That was my mistake. My recollection was at fault, counsel, very well.

MR. McHANEY: Does the Tribunal wish a short statement about the origin of the document which has been put to the witness?

THE PRESIDENT: Yes, if the matter is to be the subject of further interrogation by all means.

MR. McHANEY: I will pass up to the Tribunal document No. NO-607, which was introduced as Prosecution Exhibit 185. This was in effect an exhibit which was prepared by French authorities and consists primarily of pictures made in the anatomical institute at Strasbourg by the French after that city was captured and shows certain bodies which were found in the basement of the building of the anatomical institute, and it is contended by the Prosecution and supported by the evidence I think that these pictures are those of the so-called skeleton collection being assembled by Hirt. Following the pictures in this album are various other exhibits which are a part of the same document and consist of various things. I think Your Honor has opened the page now with which we are concerned. Do you find the sheet marked 3-B?

THE PRESIDENT: Yes.

MR. McHANEY: 3-B consists of a photostatic copy of extracts taken from German records purportedly captured in Netzwiler. These are single paragraphs taken from different monthly reports made by the camp doctor in Netzwiler. The extracts taken from these documents which appear in this exhibit purport to be subject matter dealing with experiments in Netzwiler, and my questions have been directed to the witness to

ascertain whether or not these extracts apply to his typhus work in Natzweiler. The difficulty which has arisen was occasioned by the unfortunate omission on the part of the translation department to translate these extracts which are a part of this exhibit which has been admitted and also their failure to type them in the mimeograph copy which were distributed to defense counsel, that has occasioned an element of surprise to Dr. Tipp and other defense counsel which is unfortunate.

THE PRESIDENT: You will see that there is a complete translation made and furnished?

Mr. McHANEY: Yes, I will, Your Honor. Now there are a number of different extracts there and I was in the process of proceeding down them one by one and asking the witness whether they apply to his experiments.

THE PRESIDENT: You may proceed.

BY Mr. McHANEY:

Q.- Professor, I think we had agreed that the extract under the date 25 November 1943, which reads: "Only 14 gypsies were found fit during the examination by the Professor directing the experiments. The number of scabies infected gypsies was reduced to four by intensive scabies treatment. Further measures are taken for raising the general state of health." Now Professor, don't you think that this excerpt from the doctor's reports in Natzweiler applied to the first group of 100 persons who were made available for vaccination and which you found to be unsuitable?

A.- I have already said, Mr. McHaney, that the dates agree more or less, but as other work was carried on in Natzweiler I cannot say for certain whether by coincidence there were the same conditions in some other group. I said yesterday that of the first 100 persons who were presented to me I believe 18 had died on the way and the rest who were presented to me in Natzweiler, I gave them a medical examination and

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discovered that they were out of the question for vaccination. They did not conform to the German legal qualifications but whether that is identical with the group we had I cannot say, of course.

Q.- Very well, now the second excerpt to which I directed your attention was dated the 24 December, 1943. In other words, approximately one month later than the excerpt which I have just put to you, the excerpt of the 24 December, 1943, reads as follows: "The gypsies transferred on 12 February, 1943, from Auschwitz concentration camp to the Ahnenerbe experimental station were again released from the experimental station, having been found unsuitable in a strict medical examination. On 12 December, 1943, 89 other gypsies were transferred from Auschwitz camp as replacements." Do you think that this extract applies to the second group of experimental test persons received by you for vaccination?

A.- Here again I can't say definitely whether this refers to the persons whom I vaccinated. As far as the date goes it seems very probable and I see no reason why I shouldn't admit the possibility.

Q.- Now, the third extract is the one dated Katzweiler 1 February, 1944, and it reads: "Experiments at the Ahnenerbe experimental station are still not under way. One of the 89 human experimental prisoners, gypsies, died with Pleura pyemia during the period covered by this report. 40 gypsies received prophylactic inoculations for a typhus experiment." Does that extract apply to your typhus vaccination?

A.- From this extract I gather in the last sentence that 40 gypsies were vaccinated for a typhus experiment, that is what it says in German. The date agrees again. It says that I carried out the vaccinations before the 1st of February because this report apparently was written on the 1st of February.

Q.* Now, the next extract in which there may be a translation difficulty or a mistake on the part of the camp doctor is dated March 8, 1944, and reads: "As already reported in the last monthly report the

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typhus inoculation proper was now performed at the Ahnenerbe experimental station after a two-fold prophylactic typhus inoculation. Subsequently temperature is checked daily and blood analyses effected regularly." Now, first, does that extract apply to your typhus vaccinations and secondly, did you have any difficulty with the usage of the German words in that extract? I call your attention to the use of the word "Typhus Impfung", and I am suggesting to you it really refers to your typhus vaccination, although I recognize that a strict translation might indicate typhoid vaccination.

A.- I was so confused with the English and German before that I accepted this word typhus as typhus, but if we look at the report I notice the German text itself says "40 gypsies were vaccinated for a typhus experiment." That is the first thing I noticed. The second thing is that certainly the camp doctor doesn't know, he writes twice in the last paragraph vaccination for typhus Impfung, which really means typhoid. One might make that mistake once but twice seems to be improbable. The important thing in the last paragraph seems to me that he is speaking about inoculation and to a German practicing physician like Dr. Krieger, that is synonymous with vaccination. The third thing I notice in considering this document, it is supposed to be a medical report but it is signed by the camp doctor of the concentration camp Natzweiler, and then there is a signature which is Kramer, who was an SS Hauptsturmfuehrer, and as far as I know Dr. Krieger was a sturmabannfuehrer at that time and this signature cannot be read as Dr. Krieger's. It looks like Kramer.

Q Well, Kramer might make a mistake in writing "typhus Impfung" when he really meant "Flockfieber Impfung", might he not?

A I don't think it's likely. He would never confuse typhoid and typhus but as it says on the document that SS-Hauptsturmfuehrer Kramer didn't sign it. If the camp doctor had signed it, it would be Dr. Krieger.

Q Do you know of any typhoid inoculations or experiments in the Natzweiler Concentration Camp around this time?

A I know nothing about it - that typhoid experiments were carried out. But, I know that in 1944 there was a typhoid epidemic in Natzweiler. That's all I know about it.

Q Do you know that your experiments were carried out in the Ahnenerbe Experimental Station?

A No, I don't know that and I don't know why it is called the Ahnenerbe here. I know nothing at the time about the Ahnenerbe or any connections that Hirt may have had with the Ahnenerbe. They were not carried out at the experimental station as such but in the hospital barracks.

Q Did you ever see Hirt in Natzweiler?

A No, I never saw him.

Q Did you know there was an Ahnenerbe Experimental Station in Natzweiler?

A No, I didn't know that.

Q Then you can't exclude the possibility that the place where you carried out your vaccinations was known also as the Ahnenerbe experimental station, can you?

A That I cannot say. It was the general hospital.

Q Now, I want to call your attention to one more extract on the document which you have. It's up on the same page, up on the upper part of the page under II b. Do you find that?

A II b, yes.

Q And you will see that the authorities who prepared this exhibit

translated a paragraph from another monthly report by the camp doctor at Natzweiler from the German into French. And you have before you an extract from a report of the camp doctor dated 30 June 1944. It is written in French. Do you read French well enough to translate that?

A Yes, I think so. It is a monthly report of the 30 June 1944 by the camp doctor. IV. Miscellaneous - the experimental section. During the period of the report experiments were carried out on 16 gypsies, 3 deaths were recorded.

Q Does that extract apply to your experiments in Natzweiler?

A No, it does not refer to my vaccinations in Natzweiler. It is a report of June. We carried out our vaccinations in December and January 1943 and 1944 and no one died.

Q All right, Professor. Let's turn to another document. Now, Professor you had testified in connection with my questions concerning the Ipsen vaccine that you never proposed to Rose that you would carry out tests on his Ipsen vaccine that he had sent to you or was suggesting that he would sent to you. You also testified that you did not conduct any vaccinations in Schirmeck after May 1943. I am putting to you document NO-2874 which is a letter dated 4 October 1943 directed to Oberstarzt Professor Dr. Rose and I ask you if this letter originated from you?

A May I first read the document?

THE PRESIDENT: The Tribunal has not received German copies of this document.

BY MR. McHANEY:

Q Did you send this letter to the defendant Rose, Professor?

A The letter does not bear my signature. I cannot say whether the letter came from me but I remember that I corresponded with Professor Rose about the Ipsen vaccine and I assume that the letter is authentic.

Q You assume that the letter came from you?

A Yes, I assume so but I cannot say for certain. It does not

bear my signature.

Q I offer this as Prosecution Exhibit 520 for identification. Let's read a little part of this letter, Professor. Let's turn to page 2 in the paragraph beginning at the top of that page. You speak of the report of Rose about the Ipsen vaccine. About the middle of that paragraph you state "As you know already from my reports, we used already unphenolized yolk-sack cultures for the production of vaccine. I already reported to you the numeral results of experiments on human beings. The Serum titer is considerably higher, also after a single vaccination, in comparison with 3 times vaccinations with deactivated vaccines. I regret that it was not possible so far to perform infectious experiments on the vaccinated persons; I requested the Ahnenerbe of the SS to provide suitable persons for vaccination, but did not receive an answer as yet. We are now performing a further vaccination of human beings; I shall report later about the result. I guess we will then have reached the point to be able to recommend our new vaccine to be introduced, for the time being without infectious experiments." Now, Professor, first I would like to observe that you used the word experiments yourself in this letter to Rose, didn't you?

A Yes, that's right. I had no misgivings about that. I often said that tests for comparison, etc., as long as a procedure is not definitely decided upon can be called experiments.

Q But, you have also insisted to this Tribunal that use of the word experiment in connection with what you did is a complete misnomer. Now you used the word experiments in connection with your work in Schirmeck, didn't you, Professor?

A I said expressly in the examination that in a certain sense one can speak of experiments but not in the interpretation the word is given here in this trial.

Q Well, be that as it may. We will proceed a little bit. Now you say "I regret that it was not possible so far to perform infectious experiments on the vaccinated persons." Now here you are telling Prof-

essor Rose that you really meant that you hadn't performed another vaccination on the vaccinated persons. Is that your explanation of that?

A No. First I want to read this sentence.

Q Infektions versuche.

A I said yesterday that after the vaccinations proper were finished we performed further vaccinations to determine immunity and that we called that infection and that it was frequently done in works by other people.

Q.- Yes, your three times vaccination was really what you meant by infection experiments.

Now, I put it to you, hadn't you already used this three times vaccination procedure in Schirmeck, Professor? See, you make mention of three times vaccination in this letter?

A.- Let me see where that is. Where is that?

Q.- It is in the same paragraph where we have been reading:

"The serum titer is considerably higher also after a single vaccination" also indicating that you carried out other vaccinations. Then you continue: "In comparison with three times vaccinations with deactivated vaccines."

A.- This "in comparison with", where does it say that? I can't find that.

Q.- Do you find the part that we just read:

"I already reported to you the numeral results of experiments on human beings. The Serum titer is considerably higher, also after a single vaccination, in comparison with 3 times vaccinations with de-activated vaccines"?

A.- We have the experience that three times vaccination with a dead vaccine produces a very low serum titer, and that's what this "comparison" referred to, not any special experiment, but experience in general.

Q.- No three times vaccination with your live vaccine? Is that right, Professor?

A.- That's right. We're talking about a dead vaccine here.

Q.- Now, you said that you didn't carry out any vaccinations in Schirmeck after May, 1943. You find in this same paragraph we have been reading the sentence:

"We are now performing a further vaccination of human beings..."

Where was that done, Professor? Wasn't that in Schirmeck?

A.- It goes on -- Oh, I see it now. But this vaccination was never carried out. It doesn't say "we did perform".

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Q.- No, it doesn't say "we did perform", it says "we are now performing" is what it says, doesn't it, Professor?

A.- That means it hasn't been done yet. I could have said "we will perform" too.

Q.- Yes, you could have, but you said "we are now performing" and I take that to mean in the process of performing.

A.- Yes, but the fact is that these vaccinations weren't performed and this expression has to be interpreted to mean that we were going to perform. That refers to the 200 persons whom I had asked for.

Q.- Oh, it does? Well, we'll see about that.

You still want to maintain that you didn't perform any vaccinations in Schirmeck after May, 1943, do you, Professor?

A.- Yes, I maintain that.

Q.- And you also maintain that although you used the words "performing infection experiments on vaccinated persons" in this letter that you really didn't mean that, that you meant another vaccination? Is that right?

A.- That was the third vaccination that I talked about. I have already told you that all this work was with a non-pathogenic virus and it was to be continued.

Q.- And you were prepared to recommend this vaccine for the time being without infectious experiments? All you meant to say by that was that you were prepared to recommend it even though you hadn't conducted your triple vaccination series?

A.- Then we had so much experience - I can see, looking back on it now - that we could introduce the vaccine on a large scale.

Q.- Isn't it a fact, Professor, that you had conducted your vaccination tests and your compatibility tests and the SS wouldn't let you infect those persons in Schirmeck and you had to get special persons through Hirt? Isn't that the fact, Professor?

A.- It's identical. The request that I made at the time went through

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Hirt. That was the same office which later gave me the prisoners for vaccination, or intended to give me the prisoners for vaccination.

Q.- Let's drop down to the last few sentences of the letter, Doctor. Do you see where it reads:

"If we can get experimental subjects from the SS for test vaccinations, it would be an opportunity to test the liver vaccine as well on its anti-infectious effect. I would then suggest that our material will be used parallel with the Ipsen tests."

Do you find that, Professor? I thought you had.....

A.- (Interrupting) Just a minute. I have only two pages here. I have to find it.

Q.- It's at the bottom of the page. It's the last two sentences of the next to the last paragraph. Do you find that?

"If we can get experimental subjects from the SS for test vaccinations, it would be an opportunity to test the liver vaccine as well on its anti-infectious effect. I would then suggest that our material be used parallel with the Ipsen tests." Do you find that, Professor?

A.- Yes, I found that.

Q.- I thought you testified to the Tribunal that you never said anything to Rose about testing his Ipsen vaccine for its efficiency? Isn't that right? Didn't you tell that to the Tribunal?

A.- I testified here that if we were to use the Ipsen vaccine it would not be in a planned group since otherwise the figures for comparison would be too small. That we would need a special series of persons.

Q.- You testified that you did not suggest anything to Rose about testing his Ipsen vaccine as to its anti-infectious effect. You told that to the Tribunal at least twice under a very precise question put by me. Don't you state in this letter that you will conduct such tests for its anti-infectious properties?

A.- I believe that I said that I didn't remember. Perhaps we could

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make certain of that. I can't remember. I told you that I don't remember this letter.

Q.- Well, it's all in the record, exactly what you said and we needn't worry about that now, but you concede that in this letter you are telling Rose you will test his Ipsen vaccine for its anti-infectious effect, aren't you?

A.- Yes, but I.....

DR. TIPP (Interrupting): Mr. President, apparently Mr. McHaney wants to refer to Document NO-122, the letter of Professor Rose. At least, that is how I understood him, and to avoid mistakes I should like to point out the following. In this document, NO-122, there is a reference to a letter from Mr. Haagen dated the 8th of December, 1943, and in the direct examination Mr. Haagen testified on this letter of the 8th of December. This letter which Mr. McHaney has just stated is dated the 4th of October, 1943, and entirely different letter.

Mr. McHANEY: I think that the observations by defense counsel are in the way of some sort of protection for his witness. Now, he has put the witness on the stand and the witness can take care of himself. He can direct any question on the clarification of this matter on redirect examination, and I must object to his interrupting this examination unless he has an objection to offer.

THE PRESIDENT: The objection is overruled.

BY Mr. McHANEY:

Q.- Now, Herr Professor, let's test your testimony a little bit more.

I want to put a further document to you. This is Document NO-3852.

Doctor, I take it you recognize that exhibit I put to you. Suppose you tell the Tribunal what it is?

A.- First I should like to look at the document carefully.

Q.- Have you read far enough to tell us what this exhibit is, Professor?

A.- I need a little time. The document is rather long. I'd like to

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study it.

Q.- Professor, I don't want you to study the document. I'll put specific questions to you and we will go over it together, but right now I want you to tell the Tribunal what this little note book is. Will you please tell them?

A.- As far as I can see at the moment, these are records, but they are rather extensive. After such a long time, I should like a chance to study them.

Q.- Professor, aren't these your notes? You recognize your own handwriting, don't you?

A.- No, this is not my handwriting.

Q.- Is it Miss Gredell's handwriting?

A.- I have to have samples of handwriting, but it might be that she wrote it, but first I'd have to see it carefully to know the contents.

Q.- Oh, come now, Professor, I think you must recognize this. I'll give you an opportunity to study each little section of it as we come to it, but right now we have to tell the Tribunal what it is.

A.- The first document is a fever chart of a mouse, 540-541. That's the first thing I have here.

Q.- Yes, that is a chart showing a vaccination carried out on two mice, isn't it, Professor?

A.- Yes.

Q.- And those were experiments carried out by you, weren't they?

THE PRESIDENT: You say, counsel, that is the beginning of this document?

BY Mr. McHANE:

Q.- Yes, Your Honor, we will necessarily have some difficulty with this exhibit. We have not had it very long and again, through some ridiculous oversight, they did not translate the full document. There are, I think, two charts attached to this note book which cannot be copied. In any event, I don't intend to direct many questions in connection with

those and I believe we will be able to proceed in an orderly fashion.

THE PRESIDENT: See that complete copies are furnished as soon as possible to defense counsel and the Tribunal.

BY Mr. McHANEY:

Q.- What about the note book, Professor?

A.- It is a record of our mice. As far as I can see now, the vaccine was tested on those mice. The immunizing effect of the vaccine.

Q.- Now, you are speaking of the chart now, are you?

A.- Yes, this curve here.

Q.- That is marked in pencil. Does that have a pencil mark on the lower right hand corner?

A. Subsequently vaccinated with yolk-sacks, is that what you mean?

Q. We will proceed. That is a vaccine test carried out by you on mice, is it not?

A. Yes, yes, of course.

Q. And the date is 3 December 1943?

A. 3 December, '43, yes.

Q. And you list the test you are carrying out as "nach-impfung", doesn't that appear in the chart?

A. The mice, yes.

Q. You didn't say "nach-infection" in that case you said "nach-impfung", didn't you, and when you were speaking about human beings you used the word "nach-infection" as "nach-impfung", didn't you?

A. That is exactly the same thing in this sense. The assistant made this entry, and I am quite certain that that is right.

Q. Except when your assistant was referring to mouse test, "nach-impfung" and not "nach-infection". Suppose you tell the Tribunal what happened to those two mice. Did they die?

A. Well, I have to see.

Q. What do you have to see? There are two big crosses on the chart there.

A. Yes, but one cross is in the middle of the curve, and they couldn't have died in the middle of the curve. And the curve went on. That doesn't work. One can't say it died if the temperature is taken afterwards.

Q. Can you tell from the chart whether the mice died?

A. No, I can't say.

Q. All right. Let's pass on to this notebook.

A. From this chart, no, no.

Q. Let's pass onto the notebook. Now, what does the notebook show? What is this notebook?

A. That is a control book, a book where the experiments with the

typhus vaccine on the animals were recorded.

Q. Does that notebook concern your typhus experiments?

A. As far as I can see now, it looks as if that was the current laboratory work which we were carrying out. That is the way it looks like, but I'd have to see all of it first.

Q. Now, Professor, you must be able to tell the Tribunal who wrote this book.

A. The technical assistant kept it, and from the handwriting, it looks as if she made those entries; but after such a long time, I can't interpret every record. I have to study it first after such a long time. We had not only vaccinations, but also scientific work.

Q. But to the best of your memory, you can state that this notebook was written by Miss Gredoll, and it concerns the experiments carried out by you?

A. The laboratory work, as far as I can see at the moment. I would like to make that restriction.

MR. McHANEY: The prosecution asks that the exhibit be marked as Prosecution Exhibit 521 for identification.

BY MR. MC HANEY:

Q. Now, Professor, we have covered the chart of the test on the two mice. Let's go to the notebook itself. And in order to follow my questions, I will ask you to observe the pencil numbers which I have written on this photostatic copy down at the bottom right-hand corner of each page. Do you find that?

A. Yes.

Q. Will you turn to page 3.

MR. MC HANEY: If the Tribunal, please, it will be necessary to re-number the pages appearing on your translations. This applies equally to the defense counsel. When the translation was made, they took some pages off the reverse side of the photostatic copy, and because of the

two pages appearing for one photostatic copy, they had to be renumbered. Page 5 on the translations should be marked page 3.

BY MR. MC HANEY:

Q. Do you find the entry for 30 April 1943, Professor?

A. 30 April '43, yes.

Q. And that says, "S, plus, plus, plus, 9, S ch." That is Schmeck, isn't it, Professor? "S ch."?

A. No. That means ninth passage. It is supposed to be "pas.", ninth passage.

Q. It says "Sch.", what does "Sch." mean?

A. It doesn't look like "Sch." to me.

Q. What does it look like to you?

A. In German, I think it looks like a "p", a German "p".

Q. And you think it should read what?

A. First I said it is probably "passage--ninth passage."

Q. All right. Let's go down to the entry, the next one for 14 May. In parenthesis "two weeks," does that mean the vaccine had been stored for two weeks?

A. Where is that, I can't find it?

Q. 14 May, immediately--

A. It probably means that it was stored for two weeks, yes.

Q. And then you go on, and it reads, "1 plus two point two for six nice, point five, I. P. All injected again, six point six immune, only two out of four of the controlled died," right?

A. Yes, that is right.

Q. Then, the next is 26 May, "four weeks, three dash six," what does "three dash six" mean, Professor?

A. Four weeks, three to six, I can't tell you at the moment. I'd have to reconstruct what the assistant wrote.

Q. Well, passing that for the moment. It continues to read, "point 5 per person and six nice point five I.P., five dead after ten, fourteen,

fourteen days. The rest after four weeks." What does "the rest" refer, to the one mouse? Does that refer to these unidentified persons?

A. No, that refers to the mice. It was simply a mouse experiment. It says "five dead". They have to have all the information on the mice. This is a brief entry.

Q. But this is May, 1943, when you were vaccinating people in Schirmeck, and this entry says "three dash six, point five per persons." Now, you are not suggesting to the Tribunal that the "persons" are referring to the mice? It continues to say—

A. But then it says "six mice" with "point five", that was the serum, I suppose, that we were testing, the immunizing effect on mice. I can't interpret it differently at the moment. "Four weeks", that means the vaccine had been stored for four weeks. "Point five per persons" were vaccinated. That might mean that was a comparison experiment, that the effectiveness was to be tested on mice. At the moment, I can't give any exact interpretation. I'd have to study the document very carefully.

Q. What does this "per person" refer to? Talking about human beings, aren't they?

A. Yes. It is very possible that that was the vaccine which we had injected into the persons in Schirmeck in May of '43; and then in parallel experiments, we tested it on mice. It was still pathogenic to mice. It was the murine typhus virus.

Q. But not pathogenic to human beings. It killed the mice, but you were sure it wouldn't kill any human beings, is that right?

A. Yes, the vaccination showed that.

Q. Let's see what it showed. Let's look at the entry for 6 July, and you will recall that this is right about the time that our witness, Hirtz was testifying. 6 July, "drawings of blood, Schirmeck, 10 persons, 3 had fever, Weil-Felix," and then under number 1 to 8, indicating persons 1 to 8, you give the serum titer count, and then comes a little phrase, "The other two were not here anymore." Professor, what about

those other two persons out of the ten? You remember that the witness Hirz testified that he personally sewed two bodies up in a paper bag which were delivered to the crematorium after you had injected your vaccine. Doesn't this, "the other two are not here anymore", rather substantiate what the witness Hirz testified to?

A. No, I wouldn't say that. In my direct examination, I said that in checking these vaccinated persons, no one was missing. Whether later perhaps these serological examinations were in May, two months ago, whether some of the prisoners were gone in the meantime, I don't know. If anyone had died there would have been an entry somewhere in the record, I should think.

Q. Doesn't that entry say, doesn't it say "the two weren't here anymore"? Where were these serological examinations in May? I don't see that in your records. Does it show any serological examinations in May?

A. In the institute. And this is a later check on the immunity through the Weill-Felix experiments.

Q. We will proceed, Professor. Now you testified you did not conduct any vaccinations after May 1943 in Schirmeck and I must have given you an opportunity at least five times to make that perfectly clear. And even on the last document I put to you you still insist you did not make any. The next entry reads, "4 October 1943, six months, inoculated 20 persons in Schirmeck, tube plus 2 cc distilled water, 0.5 per person."

Do you want to change your testimony now, Professor.

A. First I have to read it carefully. There is a figure here, "six months". I have to interpret that "20 persons inoculated in Schirmeck". Those are probably the 20 people that we vaccinated in May that the witness here mentioned. "Two cc distilled water, then 0.5 cc per person." I do not know even today that in the fall of 1943 we carried out vaccinations in Schirmeck. Then there is an entry on the 27th of January, 1944, nine months.

Q. That is right. That gives you the length of time you had this vaccine stored, does it not, Professor? On 4 October 1943 you had it stored six months? You inoculated 20 persons in Schirmeck on 4 October, did you not, as you stated in your letter to Rose, on the same date, the inoculations are now progressing, or words to that effect? You remember you said to Rose in a letter of 4 October 1943 which I put to you that was just a plan that ^{you} would do that. This entry indicates you did do it, does it not, Professor?

A. I must weigh what I said before. The letter was dated 27 January 1943, a time going much farther back.

Q. Yes, it is further back. It is obviously a mistake, Professor, as you well know. Sometimes people running from December over into January make a mistake and put the last year, you know, and that is obviously what happened in this case because he could not write a contemporaneous entry for January 1943 and then have it appear up above that entry, entries for October, July and May and April 1943, could he,

Professor? You will agree with me that that date should read 27 January 1944, when the vaccine had been stored nine months dating from 30 April 1943, is that not right, Professor?

A. I cannot remember that we vaccinated anybody in Schirmeck later; I am very sorry.

Q. You remember that you did not vaccinate anybody after May, Professor?

A. Yes, that is right.

Q. On 27 January 1944, which is the next entry, "nine months, mixed with the same amount as 21 May distilled water plus tube, 20 persons 10 cc each." Those were in Schirmeck, too, were they not, Professor?

A. It says 1 cc, 1 point 0 cc. It does not say anything about Schirmeck. I cannot say. I must assure you once more that I actually know nothing about these vaccinations. I am very sorry.

Q. Let us proceed to page 4, Professor. It is apparently another series on Schirmeck. Do you find the entry on page 4? Your Honors should change page 6 to page 4.

THE PRESIDENT: Our pages are number^{ed} 1 and 2. You are referring to the numbers on the original document?

MR. MC HANEY: Yes, Your Honor, page 6 on our translation, page 6 of the original should be changed to read page 4 of the original.

Q. Now, Professor, do you find an entry on page 4 before you, of 10 October, five months, inoculated ten persons in Schirmeck? Do you find that, Professor?

A. Yes.

Q. That indicates you inoculated some after 4 October 1943, vaccinations which you mentioned in your letter to Rose, and which are confirmed by this notebook.

And then, under the entry for 10 October, you find 27 January 1944. Does it appear 1944 on the original?

A. 27 January 1944, yes.

Q. Eight months?

A. Eight months, yes.

Q. You speak of inoculating 20 persons there, do you not, Professor?
Can you tell the Tribunal that those were done in Schirmeck?

A. I do not know that vaccinations were performed at Schirmeck at this time. We were only vaccinating in Natzweiler at this time, and I have not heard that such vaccinations were carried out. I am sorry.

Q. All right.

A. I am trying to interpret the document.

Q. Professor, let us go on to page 5. The Tribunal will change page 7 of the original to page 5 of the original. Do you find page 5, Professor?

A. Yes.

Q. This mentions another series of inoculations in Schirmeck, 13 July 1943, approximately seven weeks, Schirmeck, 0.5 cc per person and six mice before the inoculation.

Let us drop down lower on the page. Do you find the entry for 14 October. This is on the next page of the translation, Your Honor, 14 October.

Professor, do you find that?

A. Yes.

Q. Ten persons inoculated for the third time with 1 cc. Professor, I thought you told us that you did not carry out multiple vaccinations with your murine vaccine in Schirmeck.

A. I have already testified that the only vaccinations in Schirmeck were in May 1943. I do not know from where this record came. In the fall of 1943 we were working only in Natzweiler. I am sorry, I cannot give any explanation.

Q. This entry, though, Professor, indicates an inoculation for the third time on a series of ten persons. That was your "Infektions Versuche", was it not, Professor?

A. No. I know nothing about it; I am sorry.

Q. But your series of three vaccinations were what you referred to as the "Infektions Versuche", was it not, Professor?

A. But these were vaccinations which were carried out in Natzweiler, Mr. Prosecutor.

Q. The book says they were carried out in Schirmeck, and about four days before, on the 4th of October, 1943, you wrote to Rose and said, "We have to carry out infection experiments." Professor, is it possible that you really meant by "infection experiments" something other than your three-times vaccination which you had concluded on 14 October 1943?

A. Let me see exactly what it says here, page 5, 10 October-14 October, ten persons, three-times point five, it says again. It only says it is a vaccination if this document is right.

Q. Does the document say "Vaccinated ten persons, inoculated for the third time"? Is that what it said?

A. Yes, it says so. In May at Schirmeck in the control group we vaccinated three times. That is not impossible, but what I notice on this document, if you want to connect it with the Ipsen vaccine, is that it does not say anything about the Ipsen vaccine; I did not find that yet, but it does say Gildemeister.

Q. I have not mentioned anything about the Ipsen vaccine. Let us proceed, Professor, so that we get through before the noon recess. Remember, you testified you had not carried out any vaccinations in Natzweiler after January 1944. Professor, will you turn to page 7 of this little notebook on your experiments, and while this is not the only entry which shows that you carried out vaccination experiments in Natzweiler after January 1944, I think it will be sufficient for our purposes. Do you have page 7? Will you find the entry?

A. Yes, I have page 7.

Q. Will you find the entry for 25 May 1944?

A. Yes.

Q. Does that read, "Together with S inoculated, used up, five tubes of M I in Natzweiler; two ampules distilled water, three to four cubic

centimeters per ampule vaccine, 0.5 cc. The inoculation took place during the incubation period, a transport containing also sick people, 13 became sick in the period from 29 May to 9 June; of those, two died."

Then it continues to give the titer value of some of the others. Professor, don't you have to change your testimony about vaccinations in Natzweiler?

A. No, I cannot change it. I know nothing about this.

Q. Professor, let us look at words "together with S". What do you understand "together with S" to mean? It is 25 May 1944?

A. I have no idea what "S" means.

Q. You testified that the defendant Schroeder visited you and you fixed the date, 25 May 1944. Is there any possibility that that "S" could mean Schroeder?

A. No, that is quite impossible. Impossible. Professor Schroeder never carried out any experiments with me or did any work in my laboratory. He was not with me in Schirmeck or Natzweiler.

Q. He was not with you in Natzweiler?

A. No.

Q. I have no further questions.

THE PRESIDENT: The noon recess today will be extended until two o'clock. The Tribunal will now be in recess until two o'clock.

(The Tribunal recessed until 1400 hours.)

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AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 20 June, 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may continue.

EUGEN HAAGEN - Resumed

CROSS EXAMINATION - Continued

BY MR. McHANEY:

Q With the permission of the Tribunal, I would like to direct a few additional questions to the witness concerning the last exhibit. This is prosecution exhibit 521 for identification which has again been handed to the witness.

Professor, will you turn to page 13 of the Exhibit?

This, if the Tribunal please, also does not appear on the translation. The notes before you - the translation before you simply concerns the note book. This chart was attached to the note book and consequently is included in the same exhibit.

Do you find a chart there, Professor, on page 13?

A Yes.

Q Do you recall your testimony to the effect that Meyer was not in a position to know anything about typhus work?

A Yes, I do.

Q Do you find this chart was drawn up by Miss Crodell, your assistant?

A This is certainly a record that Miss Crodell drew up.

Q And what dates does this chart cover?

A From the 24th of May

Q Will you repeat the date, please. 24 May to what?

A 24 May to 6 July 1944.

Q And this shows the Weil-Felix reaction tests?

A Yes, the Weil-Felix reaction was undertaken.

Q Will you read the name which appears across the top of the chart?

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A. Herr Meyer.

Q. No further questions.

THE PRESIDENT: Any redirect examination of this witness?

REDIRECT EXAMINATION

BY DR. TIP:

Q. Professor, the cross examination by Mr. McHaney makes a few questions necessary.

First of all, we will discuss the old documents put in by the prosecution sometime ago and then the new ones.

First of all, a preliminary question, Professor. In your direct and also cross examination you described Becker-Freysong's visit to you in Strassbourg. I should be interested to know, what you can say about whether Becker-Freysong came to Strassbourg in order to visit you or whether his purpose for the trip was another and whether his visit to you was only incidental to this other purpose?

A. I have already said that Becker-Freysong, on orders from Professor Schroder, was to, if possible, meet my wishes regarding experimental animals. I told him what my wishes were. I believe I remember that Becker-Freysong visited another institute, however, namely the Pharmacological Institute and the director there, Professor Schlemmer.

Q. Thank you.

Please take document book 12 up again, Professor, and take a look at Document NO. 127 on page 94. This is your letter to Hirt of 27 June 1944 which contains the infamous concepts "control persons" and "subsequent infection." You said that in the parallel group of persons not vaccinated you could count on cases of sickness particularly in that group. In my opinion, you didn't explain clearly enough in the cross examination, why precisely in this control group you felt that you had to count on cases of sickness. Perhaps you could clarify that. Please do not go into the problem of subsequent infection at the moment.

A. I shall confine myself to the interpretation I gave yesterday.

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Sickness in this case means nothing more than reaction to the vaccination. As I said before, this letter was directed to laymen who wouldn't have understood more complicated terminology. That I pointed this out, the reason for that was that vaccination with injections are generally known. There have been hundreds of thousands of cases of that, so that I didn't have to point out specifically that fact, but vaccination through scarification of the skin had not been the subject of much experience heretofore. Therefore, I had to refer to my vaccinations of December and January. Therefore, for these reasons, I felt that I should point out that there would be stronger reactions, but, as I said, I did this for my own protection, so to speak.

4. Then, if I can sum up what you have said, the control group, as it is here called, was to be vaccinated only once by a scarification process whereas the other group of 150 persons was to be given preliminary vaccinations in the usual and well-known way by intra-muscular injection, and in this regard you are saying that more severe reactions must be expected in that control group which was vaccinated only by scarification of the skin.

Now, we must turn to the documents that have been put to you by the prosecution. Perhaps, Mr. McHaney would be so good as to give me the photostatic copy that was discussed this morning. I mean the photostatic copy of Document 807. Apparently, the photostat is not here at the moment, Professor. In the meantime, we can take up another document.

I have the photostat copy now, so we can continue in our discussion of it.

You recall this document don't you? This is the document with the letterhead "Camp Physician- Concentration Camp Kitzweiller." It contains these individual sentences that Mr. McHaney put to you this morning and regarding which he asked you whether these individual sentences, referred to your work. I want to clear this thing up, because in some cases I am not clear in my mind whether you think that certain of the sentences

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really do refer to your work. The first sentence reads, the date is 25th October, 1942, and I quote:

"In addition there is the new scientific experimental series that is going to begin in the next few days which will make particular demands on us."

Can you tell us Professor, whether this sentence refers to your work?

A That sentence comes from a report of 1942 so that sentence does not refer to my protective vaccinations.

DR. TIPP: When I look at this document, your Honors, I see a number of points in it that will be of very considerable probative importance. There are clippings. I see that the letterhead, with the date, is on an extra sheet of paper and the text thereunder is on a different sheet of paper. Therefore, you cannot even see from this document what dates belong to what entries. That is quite obvious from the photo copy. I do not know whether the Tribunal has a photo copy of this document. At any rate, it can very clearly be seen in my copy that the letterhead and the dates are not on the same piece of paper as the entries. Perhaps Mr. McHaney can explain that, but in the form that I have it here I can see no probative value in this document whatsoever. Perhaps I may be permitted to show the document to the Tribunal. Here, for example, and perhaps Mr. McHaney will confirm this, this is supposed to be a letterhead. Now this is written on the slant, by another typewriter, and then the entry thereunder is obviously another piece of paper cut out from somewhere.

MR. McHANEY: It seems to me we have had considerable discussion about this document. It is quite clear that the excerpts here were cut out of a report made by the camp doctor, the report covering other matters than those in issue here and which were not included by the French authorities who prepared this. Now, of course, if you cut the bottom or middle paragraphs out of a report, it is not going to show the date on that piece of paper which is excised from the full report. Consequently, I think the obvious explanation is that the French authorities who prepared this, as far as this top line goes, apparently took off the letterhead of the report and then excised a paragraph further down in the text in the context of it and then photographed the two together. As far as the second excerpt goes, it seems they did not even do that. They just cut out the particular paragraph which they wanted to reproduce in the full report and then apparently typed

in the date of the report on some other machine, contemporaneous with preparing this exhibit. All this will be quite clear on the original exhibit itself, that is to say, the album of pictures. It is rather difficult to very specifically analyse this photostatic copy, but since the document has been authenticated as genuine by the proper French authorities, and has been admitted into proof, I take it that this material is admissible and can be put to the witness and can be used for whatever value appears.

DR. TIPPI: From this document, as it is put together, and from individual sentences which taken by themselves are incomprehensible, it cannot be seen where this sentence really was in the original document. These are individual slips of paper in a row, one after the other, and they have been photostated, without its being possible to know what any particular sentence belongs to. That the sentence really belongs under the date which is written alongside it is not to be seen from this document. This is, at any rate, the first document of this sort that has ever been put into evidence here in such a form. It is quite possible for the Prosecution to cite certain sentences in a document, but heretofore it was always usual for the entire document to be put in and if individual sentences were extracted from it, their context was comprehensible.

MR. McHANEY: If the Tribunal please. There are two questions open here. Is the document admissible? That question depends upon the authenticity of the document and its probative value. Now this document has been properly authenticated by the appropriate French authorities and has long ago been admitted into evidence. Now the second question is materiality. I put these excerpts to the witness and he has conceded that it is possible, if not probable, that certain of the excerpts applied to him. Others, he said, did not. I take it that this is some proof and that it can be considered by the Tribunal. Dr. Tippi's efforts now are to have the Tribunal rule that this portion of the document is not admissible and that no questions

can be put to the witness, whereas the witness, himself, has already conceded the possibility that certain of the excerpts do apply to his experiments.

THE PRESIDENT: The Tribunal will reserve the ruling upon this point until the photostats are prepared and distributed and can be examined. Meanwhile, counsel may proceed with the redirect examination.

BY DR. TIPP:

Q Since there is still the possibility that this document will be admitted in its present form, I must still go over certain points that it involves. Now on 25 October 1942 there is the sentence: "In the roll-call that the professor conducting the experiments called, only 14 suitable persons could be found. Treatment reduced those who had scabies to 4. Further measures to improve the general level of health are under way." As I say, this is dated 25 October 1942. In your opinion, could this roll-call or examination refer to the one that you referred to in your direct examination? Perhaps I could read the next sentence, to make this clearer. "The gypsies provided by Ahnenerbe for Natzweiler from Auschwitz on 12 November have after medical examination been released from the concentration camp as unsuitable. On 12 December 1943 some other gypsies were sent from the concentration camp of Auschwitz. Experiments are not yet under way." If you look at these 2 sentences again, Professor, which of these 2 sentences refers to the group of persons which, according to your testimony in direct examination, were examined by you and found to be unsuitable?

A As I said in my cross-examination, the situation was as follows: If the persons mentioned in paragraph 2 were provided for my vaccinations, then I can repeat what I have already said - that these persons were really in a state of health such as made it impossible to vaccinate them. To that extent there is a connection between the fact and this statement here.

Q Just a moment, witness! In paragraph 3 it says, "on 12 November 1943 prisoners sent from Auschwitz were released as unsuitable. That is 12 November 1943. That date corresponds to the date given in your letter to Hirt, in which you stated that you examined this group of gypsies. Do you want to say that this paragraph refers to your experimental group?

A Yes, but I was explaining the second paragraph.

Q Then you think that under the circumstances the second paragraph too might refer to your experiments?

A In the cross-examination today I said that I cannot be sure whether or not these were the gypsies I was going to use for my vaccinations. If these are the same gypsies that are mentioned in the third paragraph, then the whole matter is perfectly clear, because it says here that the people were unsuitable for vaccination. "After careful medical examination they were released from the experimental station. Instead of them, on 12 December 1943, another 89 gypsies were sent in from Auschwitz." That is the continuation here in the document.

Q In other words, witness, the two paragraphs could refer to your intended vaccinations and, if I understand you correctly, this is certainly true of the third paragraph?

A Yes, that is the way it is.

Q Now the fourth paragraph in this document - I should like to ascertain the following from the document. Here is a little slip of paper, apparently a letterhead on which stands "Camp Physician, Concentration Camp Natzweiler, 25 January 1943." That is all there is to that slip of paper. This slip of paper obviously partially covers another slip of paper, the text of which it is very difficult to read. The first line is altogether covered and the second line reads: "Part of the additional dressings needed were taken from the SS drug-store and the rest from the medical military department of the Anatomical Institute of the University of Strassbourg." Is it your

opinion that this sentence refers to your experiments or your vaccinations?

A No, that is out of the question, because the date proves, namely, January 1943, that that was not possible. Moreover, this date refers to an altogether different letter, as you can see here.

IR. TIPP: Then let me state in order to clarify the probative value of this document that in the third paragraph of this document the date of 12 November 1943 is mentioned and then as continuation there is a date of 25 January 1943. These dates alone show how carelessly this document was put together.

Q Now there follows a slip of paper with the letterhead, "Camp Physician, Natzweiler Concentration Camp, 1 February 44. This slip of paper is again alone another slip of paper. However, attached to it is another slip which doesn't seem to be the same piece of paper but another: "Experiment Stations in Ahnenerbe have not yet started 89 experimental subjects, namely gypsies. Of the 89 experimental subjects (gypsies) 1 has in the meantime died; 40 have been vaccinated for a typhus experiment."

If we assume, Professor, that the date is in order—namely, 1 February 44 — do you then believe that these 40 gypsies who must have been vaccinated in the meantime were your first experimental group?

A So far as the last line of this paragraph is concerned, it says that 40 gypsies were vaccinated for a typhus experiment. That, of course, is probable, but I don't believe that any German doctor would use the wrong gender for the German word "experiment" which is done in this document; as far as the time element is concerned, it does seem to be in order.

Q Then there is the last sentence in the last paragraph of this document. This, too, again is two different slips of paper as the photo copy shows. The first one says: "Camp Physician, Concentration Camp, Natzweiler, 22 March 44"; and the next fragment of the sheet of paper carries the number "10" and says: "As last reported in the last monthly report, there were two vaccinations in the experimental station, followed by the vaccinations proper after which blood analysis and temperatures were taken."

Let me say the following regarding this. Here there is mention

of the last monthly report and then it says after two typhoid vaccinations there followed the third vaccination. Am I correct in thinking that when they speak of the last monthly report they are speaking of the report from the month of February which we don't have here?

A The lapse of time would have had to be about two months so that, apparently, one report is missing here, a report that was made in that period of time?

Q That is apparently the report at the end of February and in this report which is missing it is reported what took place in January; and there it says that after two typhoid vaccinations the typhoid vaccination proper took place.

Q Witness, do you think we can assume that this sentence, as it now stands, refers to typhoid which we, of course, should really understand to be typhus vaccinations in Natzweiler?

A Yes, I think so because every general physician who has anything to do with inoculations knows what an inoculation is and this expression can hardly be confused with anything else. The date also remember, please, that the reports are not given at regular intervals and that on 22 March the camp physician already knew the results of the vaccination. It isn't stated precisely when that third vaccination was made but it certainly was done before 22nd of March.

Q You, apparently, are overlooking, witness, that it says here in this document: "As already reported in the last monthly report." Therefore, that statement must have been made in a February report. Don't you agree with me to that extent?

A "As it was already stated in the last monthly report, there were two vaccinations followed by the typhus vaccinations proper which in turn was followed by blood analysis and temperature taking." That is what it says. But, I think the number "3" here was wrong. Number "2" would be right. It is badly printed here. I read it "number 3" and I am trying to correct it. It should have been "2". If it says two vaccinations here, they everything is in order. There followed thereupon the third vaccination.

Q If I understand you correctly, witness, you are saying that this sentence of the report refers to your vaccinations in December and January. Your series of three vaccinations. Now let's take a look at NO 3450, Exhibit 519. This is the list with the letterhead statement of expenditures, with bills and receipts included, for influenza research assignment, et cetera.

A I don't have the document here.

Q One question about this, witness; Mr. McHaney has said that you said that you did no vaccinating for the Medical Inspectorate. Nevertheless, you made many trips to Natzweiler and Schirmeck and many telephone calls and included the charges for that in the statement of expenditures for the influenza research. Let me ask you the following about this, witness; were the individual expenditures in research assignment sharply kept separate or was the general policy that the funds could be spread around for the individual assignments and the funds for one assignment could be used to make up for deficits in the other assignment?

A Yes, that was customary. If you had several funds and one fund had just been exhausted or was about to be exhausted, and if you had money in the other funds, and if the same person was using both of these funds, that came from the same place, then you took the money from the one fund without question and used it for the other fund.

On the occasion of the conversation I had with Kwenzel during which I told him that the funds for one research assignment were exhausted, Kwenzel told me explicitly that I could take funds to make up for that lack from the other fund. In a laboratory where many things are being worked on, that is quite a customary procedure. That is something that everybody does and in saying this I base my statement on what Kwenzel told me himself. I believe others here could substantiate that.

Q Then you say that these trips and telephone calls to Schirmeck

were included in this statement of expenditures for influenza research but that this does not prove that the trips and phone calls were made actually in connection with this influenza research for the Medical Inspectorate of the Luftwaffe but this was done for purely practical or formal reasons?

A Yes, that's so.

Q Do you have the next document, witness, 2873, your letter to Rose of 4 October 43?

A No, I don't.

Q I will have the document put to you. First, one little question about the document 3450 we have just been discussing: it strikes me that there are a large number of phone calls to Schirmeck listed here which really must be phone calls that were made to Natzweiler. Wasn't the situation this, witness -- Natzweiler didn't have it's own telephone exchange; consequently, all phone calls for Natzweiler had to go through the exchange at Schirmeck, so that you couldn't keep these two things separate in the bill at all?

A That I cannot tell you because the connections were always made by my secretary but you will see that in parentheses you will see the name "Natzweiler" after the word "Schirmeck 108". Consequently, these can only have been phone calls to Natzweiler.

Q In document No. 3450, under 18 March there is a phone call listed, Schirneck 108 (Natzweiler). Now, witness to document No. 2874, exhibit 524, your letter to Dr. Rose from 4 October 1943, the Prosecutor put to you three points in this letter. The first thing he put to you is on page 2 of this document, in the original it is toward the end of the second paragraph. You are speaking here of Serum Titer Values in connection with your, and I will quote: "The Serum Titer is considerably higher, even after a single vaccination, in comparison with triple vaccinations with dead vaccines." The Prosecutor said that you said nothing in your direct examination about a triple vaccination, and when discussing the vaccinations with Schirneck you didn't say any such vaccination took place; what is this reference then to the triple vaccinations and the Serum Titer?

A A triple vaccination was prescribed and we have the vast experience with dead vaccines that only limited agglutinative titer values resulted; that is what this sentence refers to, namely, the series of three vaccinations with the dead vaccines.

Q Then, if I understand you, witness, this is a statement of general experience which you have had with dead vaccines and these do not refer to any vaccination or experiments that you carried out?

A That is correct.

Q You were also asked about the next sentence by the Prosecution: "I regret that it was not possible so far to perform infections experiments on the vaccinated persons; I requested the Ahnenerbe of the SS to provide suitable persons for vaccination, but did not receive an answer as yet." Can you tell us what letter you are referring to when you say that you turned to the Ahnenerbe of the SS, but did not receive any answer?

A Here I am referring to the application that I made through Professor Hirt, and apparently Professor Hirt forwarded this letter to the Ahnenerbe. To what extent the Ahnenerbe was competent or identical

with the WVHA, that I do not know, but certainly this refers to that group of persons whom I requested for protective vaccination in Natzweiler.

Q You are referring then, witness, to the group that you first asked for from Professor Hirt. We do not have this application here, but I can remind you of document No. 120, in document book 12, page 75, this letter mentions your request of 16 August 1943; signed by Sievers, it states that Sievers will be glad to help and has turned to the competent agency to see to it that the persons you wish will be made available. This letter of Sievers, is dated 30 September 1943; and document No. 2874, namely your letter to Rose is dated 4 October 1943, document 2874; is it not more than improbable that in view of the state of the mail at that time that on the 4th of October 1943, in Strassbourg, you could have received a letter sent from Weischenfeld, in Upper Franconia on 30 September 1943?

A That can be seen from my letter to Hirt. If I had received this letter by then, I would have referred to it. This is document 120 and the letterhead is, "Institute for Military Scientific Research", and if I had received it, I should have referred to it.

Q That is what I mean, witness, but I am going to prove from the two dates involved, that on 4 October when you sent this letter to Rose, you could not yet have received the letter from Sievers on 30 September; in other words, you had no news from the Ahnenerbe; is that so?

A Yes, that is.

Q Then, witness, when in this last letter, 2674, you say that you had turned to the SS for carrying out infectious experiments, are you referring to the same thing, namely the carrying out of three vaccinations with reinstated living virus?

A Yes, but I think I have to correct a detail here. I didn't turn to the SS in a matter of infection experiments but in the matter of protective vaccinations. You said that I turned to the SS in a matter regarding infections?

Q I was simply using the same words you used in this letter. You write: "I regret that it was not possible so far to perform infectious experiments on the vaccinated persons."

A That refers to the group that was subsequently to be post-vaccinate to ascertain the anti-infectious protection through Serological examination that would follow.

Q Now, down here further I would like to discuss something with you -- skipping one paragraph, toward the end, I quote: "According to our opinion of today regarding the course of infection in virus diseases, especially in their beginning, the Serological diagnosis for the classification of the immunity has again to be considered as of greater importance." What do you mean by this Serological diagnosis when you are classifying the state of immunity? Do you mean the Weil-Felix reaction and the hereby ascertained Serological result or what are you referring to?

A Yes, that is right, the Weil-Felix reaction is of great assistance in ascertaining immunity and this agrees with what I have already said here about the ascertaining of anti infectious immunity by Serological means. When I am referring to virus diseases, I am referring to experiences that others have had in the general subject of other virus diseases.

Q Now, witness, another question about this document. The Prosecutor compared the two concepts used in this document. You said you spoke of subsequent infectious experiments and in the last sentence, you say, I quote: "If we can get experimental subjects from the SS for test vaccinations....", are you referring to two different things on the one hand when you speak of test vaccinations and on the other hand, subsequent test infections, or do these both refer to the same thing. Are you using the two concepts simultaneously in the words you explained in your direct examination?

A Yes, that is so. I am testing here the anti-infectious immunity after the protective vaccination.

Q I believe that sufficiently clarified this document, witness.
I shall turn now to the last document put to you, document NO. 3852.

THE PRESIDENT: Before starting examination on that document, Counsel, the Tribunal will be in recess for a few minutes.

(Theroupon a recess was taken.)

THE MARSHAL: Persons in the court room will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. TIPP:

Q. Witness, the last document I should like to discuss with you is 3852, Exhibit 521. If possible I should first like to see the original. I would be grateful to the representative of the General Secretary if he would give me the original of this document, Exhibit 521, Document No. 3852.

Witness, you had this document before you this morning or a photostat of it which was submitted as the original. Can you tell us did you know this document before it was handed to you this morning?

A. Perhaps I might see the photostat again. I should like to add that in part the figures given here agree with my published report but the dates given here and other information which does not agree with my paper. If the other information about vaccination is correct I think I would have had no reason not to include this in my published work, but I should like to ask to have the original brought here. I don't know whether that is possible, or whether the authenticity can be ascertained in any other way.

Q. Witness, I asked you whether you knew the document before you saw it this morning. That's the first question we have to go into before we can go on.

A. After such a long time I can't remember exactly how the record was written but it contains so many unclear things, that I must say I don't know it in this form.

Q. Well, you know the handwriting of your assistant, witness. I believe Miss Crodell worked with you for years. Can you say anything about whether this document was written by Miss Crodell, whether you think that all of it was written by Miss Crodell, or whether perhaps she wrote part of it and did not write other parts?

A. That is difficult to say. In general the handwriting looks like

Miss Cordell's but some parts look a little different. I think that could only be decided by showing it to Miss Cordell herself.

Q. You are no doubt quite right, professor. The only person who can identify the document one hundred percent would be Miss Cordell, but we do not have her here. Therefore, I must unfortunately ask you do you consider that the entire document was written by Miss Cordell or do you believe that it was not entirely written by Miss Cordell?

A. Well, to judge by the dates in here and the testimony which I have given and what Hirz said about the vaccinations there is such disagreement that I must say the record could not have contained the data in this form.

Q. Then, I understand you to say, professor, that because of the handwriting and the contents you have considerable doubt that this document was written entirely by Miss Cordell?

A. Yes, I must say that because I knew nothing about vaccinations at this time.

MR. MC HANNEY: If the Tribunal please, I must object to the formation of the questions being put to the witness. It is quite obvious that an attack is being made on the authenticity of this document. We have had several unfortunate incidents already in this trial in connection with the authenticity of various documents. Now, if this witness wishes to attack that document I will have to insist that questions be directed to him in such a manner that he identifies particularly those sections of the diary in which he says Miss Cordell did write and those sections she did not write. Now we have just got general questions so far about "Do you think some of them were not written by her" and we have no identification of the particular passages the witness is prepared to testify Miss Cordell did not write. I think getting a general statement of this sort from the witness is not apt to correct anything.

THE PRESIDENT: Counsel is correct. The witness should identify the portions of the document which he says are in Miss Cordell's writing

and those which he doubts are. I would ask counsel for Prosecution where the original of this document is?

MR. MC HANEY: The document was obtained by Prosecution some five days ago from the French authorities in Strassbourg, particularly the investigating officials who now have returned.

THE PRESIDENT: Prosecution simply procured a photostatic copy of the document, is that correct?

MR. MC HANEY: No, your Honor, the original was brought to Murnberg by the French authority in whose custody it was and who did not wish to surrender it to us. We had the original here, we had it photostated and the official did not find it convenient to prolong his stay in Murnberg and he has returned with the original.

THE PRESIDENT: Defense counsel may proceed.

Dr. TIPP: Mr. President, of course I shall ask the witness which parts he considers authentic and which not. First, I wanted to ask him whether he had any doubts at all.

Now, Professor, you have the photostat before you. It is regrettable that the original is not available. I do not believe we will be able to get along without the original. If there are doubts of the authenticity of a document, which is apparently the case here, it can be determined only with the aid of the original whether these doubts are justified or not. A comparison of the handwriting and of the material perhaps can be performed with the original, but not at all, or only with great difficulty, in a photostat. I should be very grateful to the Tribunal, therefore, for a ruling that the prosecution get the original from Strassburg and submit it in evidence. If these doubts are cleared up, then the original can be removed from the files and replaced by a photostat, but in this case it seems to me absolutely necessary to submit the original in order to determine whether the entries are all in the same handwriting. This can be determined only from the original.

THE PRESIDENT: The Tribunal has not yet seen the photostat. After the Tribunal has examined the photostat at the end of the examination, some ruling can be made.

BY DR. TIPP:

Q.- Witness, perhaps you can show some striking points where you have occasion to assume that Miss Credell did not make the entry.

THE PRESIDENT: Counsel, are you limiting that question to the text of the document or to the format of the handwriting?

Dr. TIPP: Mr. President, I am afraid I can answer this question only after the witness has explained on what his doubts are based.

MR. McH. W: If the Tribunal please, the witness has made it abundantly clear, and I think that the cross examination also made it clear, that there is a sharp contrast in the testimony of the witness and certain entries in the diary. Now, I think that if he is contesting the authen-

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ticity of the document, he must do so not on the basis of his recollection of events of which he has already testified to at great length, but on comparison of the handwriting. He knows Miss Credell's handwriting very well. She worked with him many years, and there is also a sample of Miss Credell's writing on an independent document where he recognized her signature. Now, if he wishes to go through the document and say "The entry on such and such a page appears to me to be not the handwriting of Miss Credell", very well, but I can't see anything is to be gained by his testifying to events now. He has already done that.

THE PRESIDENT: Submit the photostat to the Tribunal, now.

BY JUDGE SEBRING:

Q.- Witness, are you familiar with the handwriting of Miss Credell?

A.- Yes, I do.

Q.- Will you please examine this document NO-3852 and state whether or not it or any portion of it is in the handwriting of Miss Credell and, if so, what portions are in her handwriting and what portions are not?

A.- It looks as if this were Miss Credell's handwriting, but the dates are not right. There's an entry of the 6th of July about the taking of blood at Schirmack, 10 persons, page 3. This must be something about seriological reaction. It seems to me that that date is much too late. Secondly, I am not aware that on the 4th of October, 1943, 20 people were inoculated.

DR. TIPP: Witness, the Judge asked you which entries you think are not in Miss Credell's handwriting. You are not a handwriting expert and the Court cannot expect that.

JUDGE SEBRING: Yes, the Court can expect it if he knows, of his own knowledge, whose handwriting it is. Certainly, the Court can expect it. If he knows of his own knowledge that it is her handwriting, he can say so and he does not have to be an expert to say so.

WITNESS: The handwriting looks like Miss Credell's.

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DR. TIPP: Then I must formulate the question as follows, witness...

THE PRESIDENT: (Interrupting) Then, counsel, the witness states that, in his opinion, the documents are all in Miss Crodell's handwriting. The only question which the Tribunal and the witness are concerned with is whether or not there are errors in the writing. That is an entirely different question. The witness may, of course, state that, in his opinion, there are errors in what was written, but from what the witness said, I understand we start from the proposition that the entries are in the handwriting of Miss Crodell.

BY DR. TIPP:

Q.- That is what I understood the witness to say too, Mr. President.

Witness, as I understand that from the handwriting which you have before you you can determine that some parts were written by Miss Crodell and other parts were not? Please testify clearly about the handwriting alone?

A.- The handwriting is that of Miss Crodell.

Q.- Well then, the question of the Tribunal is cleared up.

Now, there comes another question which the President just asked. From which entries do you believe that Miss Crodell was mistaken? That's another question.

A.- The first entry which I think is wrong is the 6th of July. "Drawings of blood, Schirnaeck, 10 persons." The vaccinations were performed in May, as the witness Hirz has confirmed, and the serological examinations were undertaken four weeks after the vaccinations. It seems to me that this date is a little late. The only explanation I can think of is that Miss Crodell entered it late and made this mistake.

On the 27th of January 1943, 20 persons were vaccinated with one cc each. That cannot be a vaccination in Schirnaeck. It is so ambiguous here that I can't tell what kind of vaccine it's supposed to be. It says nothing about animal experiments as it does above in April and May where the animal controls are entered. That's one thing.

Then, 27th of January 1944 - once it says 1943, and then again it says 1944. We did not vaccinate anybody in Schirmeck.

As I remember, the figures may be right, but then there is another discrepancy, 14 October, apparently 1943, where 10 persons were inoculated three times with one cc.

Those are the parts which I cannot testify to.

Then there is another entry, 25 May 1944. I can't understand what "S" means and what "H" means. Miss Crodell certainly would not have used these abbreviations because nobody would have understood them later.

Q.- Then if I understand you correctly, witness, these are the points where you believe that this record could be mistaken?

A.- Yes, it contains mistakes which I cannot explain.

Q.- If I have understood you correctly, the first point was two entries which you compared, one 27 January 1943 and one of 27 January 1944. I shall quote:

"27 January 1943 (9 months) mixed with the same amount as 21 May distilled water per tube, 20 persons 1 cc each."

The entry of 27 January 1944:

"(8 months) mixed with the same amount as of 21 May 2 cc distilled water per Tube, inoculated 20 persons with 1 cc, each."

The two entries agree, is that right?

A.- Yes.

Q.- Then, if those two entries are correct that means that you performed the same inoculation on the same number of persons twice exactly one year apart?

A.- Yes, that's what it looks like.

Q.- Is that possible, witness?

A.- No, that is quite impossible. On the 27 January 1943 it says "9 months". We didn't carry out any vaccinations at all. We didn't have any vaccine. On the 27th of January 1944, which is much later, it says "8 months".

Q.- Then, you say these two entries show that the entry is not correct as far as the contents are concerned?

A.- Yes, it is wrong. I can't say what the mistake is, but there is certainly a big mistake here.

Q.- Now, witness, the entry of 6 July "Drawings of blood, Schirmeck 10 persons", that's the fourth entry on page 3. I quote: "6 July, Drawings of blood Schirmeck, 10 persons (3 had fever)" and then follow 8 figures which are apparently titer values. Then it goes on "the other two were not here anymore". Then comes the average titer. Witness, can you tell me why your assistant writes "Drawings of blood, Schirmeck, 10 persons" and then she gives the titer values of 8 and writes "two are not here any more"? The Prosecutor concluded that the two persons were not there. Do you believe that this interpretation of the prosecutor is correct, or do you see some other possibility of explaining this entry since it speaks of the "taking of blood from 10 persons"?

A.- I have already said that it says here "2 were not here any more". It probably means the two persons were not in the camp. There might be the suspicion that they had died. I spoke of that under direct examination. We certainly would have made a notation that two had died. The two who died, died two days after the vaccination according to Hirs.

Q.- Now, witness, something else. We must assume that blood was taken from "10 persons, three had fever", as Miss Cradell writes. Then, it gives 8 titer values and says "the other two were not here". In my opinion, this does not mean that two persons were gone because it would not have mentioned the taking of blood from 10 persons, but that some material was missing. I don't know whether my interpretation is correct. It is just a matter of interpreting the document.

MR. Mc HANEY: If the Tribunal please, I object to the question and I ask that the witness be directed not to answer it. I think Dr. Tipp realizes full well that he has gone clear beyond the permissible bounds of examination of his own witness. He has been leading him

around by the nose with this document for about five or ten minutes.

DR. TIPP: Mr. President, I do not believe I am leading the witness around by the nose or that I have overstepped the bounds of permissible examination. I am trying to interpret the document which is my right when a document is submitted. I am asking the witness what his opinion is on these various points.

THE PRESIDENT: The witness should be the one to interpret the document, not the counsel. The question is objected to, but you can ask the witness to explain the document.

DR. TIPP: Mr. President, may I ask - is the witness to answer this question which I asked?

THE PRESIDENT (Interrupting): The objection to that question is sustained. It is leading and suggesting.

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Q. Very well, Witness, the titer values of eight persons are listed here. Probably you remember these are titer values of the persons given in your paper?

A. Yes. I recognize them.

Q. So that the taking of blood of ten persons refers to your vaccinations?

A. Yes.

Q. Now witness if I remember correctly, you told us on your direct examination that you vaccinated only eight persons in this group?

A. We vaccinated 28 of the persons altogether in Schirmeck. One group was eight persons. They were taken of by Antloff.

Then there was a group of 20 persons who were vaccinated and who were taken care of by pharmacist Hirz. Antloff does not say who in this group of 8 persons died. Hirz says in the group of 20 which he took care of, two are supposed to have died on the second day after the vaccination. The eight persons were vaccinated when Antloff was the nurse.

Q. Then you believe, Witness, that these "two who were not there anymore," - we do know whether it was people or material or what, - cannot refer to the second group of 20 persons, but only to the first group of 8 persons. Is that right?

A. Yes. That is right.

MR. McHANEY: I object to the question as being leading and suggestive.

THE PRESIDENT: The general rule for determining whether or not a question is leading is whether it can be answered with the words "yes" or "no". If it can't it is a leading question. On some matters, you may direct

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the witnesses attention to the portion of the document and ask what it means, and the witness will explain the meaning of the document.

DR. TIPP: I did not think I was asking a question. I thought I was merely summing up what the witness had just said.

THE PRESIDENT: That is objectionable, too.

Q. Witness, we will go on to the next entry, 4 October 1943. It says, "Innoculated 20 persons in Schirmeck, 0.5 per person." I cannot understand this entry, as it stands. As a scientist, can you explain to us what this means?

A. In this entry of 4 October 1943, there is no detailed information. It merely says 0.5 per person. I cannot understand that entry. If it were correct, it would say, "0.5 cc" and then it would say what it was. It just says 0.5.

Q. Then comes the entry of 27 January 1943. Witness, you have the photostate before you. I do not. Is this entry directly under the 4th of October 1943 in the photostat?

A. Yes, directly under it.

Q. Witness, can you imagine why Miss Crodell first describes something supposed to have taken place on the 1st of October 1943, and suddenly she jumps back to the 27th of January 1943?

A. No; I cannot say. And the entry does not show what it was about.

Q. As far as I know myself, Miss Crodell worked for you for a long time?

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A. Yes.

Q. Was she such a sloppy worker as this document seems to indicate that she made these entries at random? That is the conclusion we would have to draw.

A. No. Miss Orodell was very careful. She was making entries in the record by the date. She cannot enter an entirely different date later. That seems impossible. Besides there is no indication what this about. It just says 27 January 1943, nine months, mixed with the same amount as 21 May, distilled water per tube, 20 persons, 1 cc each. That is an unusual way to keep a record. It should say what vaccine it is and so forth.

Q. This 27 January 1943, mixed with the same amount as 21 May, that is on Page 3. In my copy there is an entry 21 May 1943 on Page 5.

A. I cannot find the page.

Q. Witness, we were just talking about Page 3. There is an entry of 27 January 1943.

A. Yes. Yes, I have that.

Q. It reads, "Mixed with the same amount as 21 May."

A. Yes. I have that.

Q. And on Page 5, you will find an entry of 21 May 1943.

A. Yes. I see it.

Q. But before that, I do not see any entry of 21 May 1943. It is remarkable that on the 27th of January 1943, the witness already knew that amount was going to be used on the 21st of May 1943. There is a great discrepancy here. If I look at Page 4, there is an entry from 1943 again. I believe, Witness, we could find quite a

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number of such discrepancies in the document. I don't know if the Tribunal is interested in them. To me, however, the points which I have just been discussing, especially the last one, that on the 27th of January 1943, referring to the 21st of May 1943, seems to be enough to prove that the document in this form is not fully valid evidence.

MR. McHANEY: I will ask that the last remarks of the defense counsel be stricken from the record as being argumentative, and should be reserved for his final argument.

DR. TIPP: Since we are dealing with the probative value of a document, we can decide it only by means of arguments. I have made factual statements, and I think I can afford to present the conclusions.

THE PRESIDENT: It is not the proper time for argument, but counsel may proceed.

Q. Witness, let us examine the document more closely. Let us look at Page 4. First of all, there is an entry of 14 May 1943. A capital "S", then three plus marks, 11 persons, 11 Tubes. Witness, can you explain this entry?

A. It is 11 passages, not 11 persons. That is the number of passages. And as to the 75, 1 to 10 diluted; that is the dilution of the yolk sack. Then it was dried and put into 11 tubes.

Q. That must be a laboratory entry, Witness?

A. Yes. It is a laboratory entry.

Q. Then it goes on, 10 October, five months, innoculated ten persons in Schirmeck, 7 with 0.5 cc each.

A. No, I think that says twice with 0.5 cc each, on the 10th of October, apparently 1943.

Q. Now witness, can you explain something to me on Page 4?

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The first entry says 14 May 1943. Then comes 10 October apparently also 1943, for a year is not given, then comes 27 January 1944.

THE PRESIDENT: Counsel, the discrepancy between the English translation and the German translation apparently--

DR. TIPP: I only have the German text.

MR. McHANEY: IF the Tribunal please, under Page 3, the old Page 5 of the English Translation, the entry which reads, "27 January, 1944," appears on the original copy as 27 January 1943. I thought I would call that to your attention earlier in the day. That is what the witness has been testifying to as a discrepancy of one year.

THE PRESIDENT: That is to what I had reference. I mistook the entry.

MR. McHANEY: The entry under Page 6 is correct, "27 January."

Q Perhaps the witness can help us. Professor, was the entry on page 3, 27 January 1943?

A Yes.

Q And on page four there is another entry.

A 27 January 1944.

Q Those are two entries which have the same wording.

A Except for the figures in parenthesis -- they are not the same. 27 January 1943, that figure was apparently changed in the photostat.

Q Well, let's go on, witness. On page 4, the last entry, 27 January 1944; is that right?

A Yes.

Q On page 5, the first entry is 21 May 1943; is that right?

A Yes.

Q Now, witness, can you tell me why Miss Crodell, who according to the Prosecution is supposed to have kept this record, mixes the dates up so. It is not customary, is it, in scientific records to juggle the dates around like that. Maybe it was customary in Strassbourg, but that is not by experience.

A Well, if the pages agree with the dates, then this cannot be a regular record such as is kept in a laboratory.

Q Thank you, witness. I don't believe the rest of the entries are of any particular importance as far as the probative value of the document is concerned. I come to page 8; I believe it is the entry of the 25th of May, 1944. Do you have that entry, witness?

A Yes, 25 May 1944.

Q In my copy it reads, together with capital "S", inoculated five tubes of H-1 at Hatzweiler, two ampules distilled water, three to four cc 0.5 cc. I do not understand these entries, witness. Perhaps you can help us. Tell us what it means about together with "S". Is there anything noticeable about this "S" you have to state, or might it be some other letter. I would like to know what you have to

say about this.

A If that were a real entry in a record, it would have to be so that one could understand the "S". I can't imagine what this "S" means, and I don't know what "M-1" means either. Those are things which are not written like that in a record.

Q Are those scientific abbreviations, witness, which are used in typhus research, or what else might it be?

A If so, I would understand it; and I don't.

Q You can't explain it?

A No, I can't.

Q "The inoculation took place during the incubation (in a transport containing also sick people)". You have already said, Professor, that Miss Crodell worked with you for years and was very reliable. Can you imagine that Miss Crodell would make such an entry, especially the words -- "during the incubation". What does that mean?

A Well, that would mean that we know that the people were infected with typhus; and during the incubation period, that is the period between the infection and the outbreak of the disease, they were vaccinated; but it says in parenthesis it was in a transport including sick people.

Q That means that in the transport, which was vaccinated, there were some sick people. As far as I know, incubation period means the period between the infection and the open outbreak of the disease; is that right?

A Yes, that is right.

Q Now, when people in a transport are sick, when it is learned later that there are sick people in the transport, can one speak of an incubation period. Can you know what the incubation period is when the people were sick?

A Then we would have to know exactly when these people were bitten by an infected louse.

Q In other words, you could not know that.

A How were we to know that?

Q Then, it can't be recorded here that the vaccinations were performed during the incubation period.

A No, of course not.

Q Then again, witness, if I understood you correctly, you mean that this record could not have been made by a scientifically trained assistant.

A No, we didn't have the material for that.

Q Then, if we assume hypothetically that this entry is correct, assuming that you really knew that the people were infected with typhus, assuming that you knew they were vaccinated during the incubation period -- I go on -- thirteen became sick in the period from 29 May to 9 June; of those, two died; after four weeks the others had the following titer. Assume that this entry is true. Can it be determined whether the people died, the people who were already in the incubation period, whether they died from the vaccinations or from the real typhus which they had already contracted previously. Can one see that here?

A Thirteen became sick in the period 29 May to 9 June. This does not show clearly when the incubation period was. We would have to consider the incubation period here. It is only stated that the first apparently became sick on the 29 of May, and the vaccinations were on the 25th of May, 1944. It is also said that these people were already in a incubation period. Even assuming it as a hypothetical answer, merely assuming that we vaccinated in the incubation period, it cannot be determined whether it was a spontaneous case of the disease or whether it was an infection after the vaccination.

Q And can you see from this record, Professor, whether these alleged deaths was the result of the disease or the result of the vaccination?

A No, that is not clear. No date is given; I can't find any date as to when they died.

Q Note the last sentence, Professor: "After four weeks the other eleven had titer....." What does the photostat say?

A It looks to me like the other 17, after four weeks, had titer 9 or 6, I don't know what that is, 3, 4, 5, 6, 7. Mine. That means a total who had titer: three, 1:100; one, 1:200; one, 1:100. That makes four. Three, 1:.... -- I can't read that, but it must be less than a thousand.

Professor, perhaps I can help you with the copy. The copy I have reads as follows:

"The other 11, after four weeks, had the following titer: Mine had no titer. Three had a titer of 1:100." That makes twelve. "One had a titer of 1:200." That makes thirteen. "One, 1:400." That makes fourteen. "Two, 1:800." That makes sixteen. That means, of the remaining 11, 16 had the following titer.

A I don't agree with you on the figures. I read that as 17. And as to the last one, I would say that was 3. That would make 17 altogether. However, the important thing is very low titer, which indicates neither a real typhus infection nor a vaccination with a living vaccine.

Q Then you say the formulation in the titer values does not agree with your scientific experience and your knowledge of the personality of Miss Gredell? Is that correct?

A Yes, that is correct. This record is in such a form that it would not conform with laboratory experiments. If we have typhus patients and the agglutination titer is calculated, the values are much, much higher. Everyone who has ever worked with typhus know that,

everyone who knows titer values. However, if of 17 persons nine -- even if some had been vaccinated -- had no titer and the other eight had an average titer of one to one nine four, that is very unlikely, to say the least.

Q Witness, you say that on the 25th of May, 1944, you did not perform any vaccinations at Natzweiler. Is that right?

A Yes, that is right.

Q Second, you say the entry itself shows that this is not correct, that it was not made by an expert.

A Yes, that is right.

Q Now, witness, this morning Mr. McHaney put another entry to you from this document which refers to a Mr. Meyer. This part of the document is not in the German copy; I don't know whether the Tribunal has it, I believe not.

Would you please tell us, witness, in what connection is the name "Meyer" mentioned in this document?

A After the name Meyer I read "Oekonom"; that would be an administrative official. Mr. Meyer was an administrative official in the Medical Testing Institution, and I said that he had no connection with our scientific work. The prosecutor showed me the document and had me confirm that it was addressed to Mr. Meyer, but he did not give me an opportunity to make any explanation. This is a list of serological tests of the blood of sick persons which was sent to us. This was the test of the Medical Testing Institution. According to the epidemic laws, such tests had to be made by the Testing Institution and registered, because reports were sent to the health officers about contagious diseases.

We had to make these serological tests of the typhus cases, and then on this list we gave the figures, and a list of results was also sent down. Then later we got back the money for the Medical Testing Institution.

Institution.

This is a financial matter and not a scientific experiment in any sense, as the prosecutor no doubt assumed. He meant to indicate that I was in contact with Mr. Meyer in that connection.

Q Well, Professor, if I understand you correctly you say that you told Mr. Meyer the number of tests made. He was the administrator who was in charge of the money and he was to collect the money; is that right?

A Yes; Mr. Meyer was in charge of the office of the Medical Testing Institution. He registered all the tests and he obtained the necessary funds.

Q Now, witness, by way of precaution, another question. You said that neither in October 1943 in Schirmack nor in May 1944 in Schirmack did you carry out vaccinations. Now, this morning the prosecutor spoke to you about this ominous "S" in the entry of the 25th of May 1944 and drew the conclusion that this "S" meant Schroeder. Now tell me, witness, when Schroeder visited Strassbourg did he go to Natzweiler with you?

A No, he did not go to Natzweiler with me; he was in Strassbourg only a few hours. As far as I can recall, he arrived about noon and left in the evening. I believe the train for Karlsruhe left at 7:19. I often used the same train. First of all, he ate lunch; second, he visited my institute; third, he visited the surgical clinic; fourth, he inspected the general installations of the hospital; fifth, he ate supper with me. Therefore, there was no time at all to go out to Natzweiler. If we deduct the meal times, he had about three or four hours, which he spent inspecting the institute and the clinic, and so forth. He also visited the ear clinic, I forgot that before, I was present myself.

Q Now be careful, witness. You said this morning to the prosecutor that it was about the 25th. Professor Schroeder happens to know where he was on the 25th of May; it was at some birthday party. Perhaps

I will submit an affidavit on that subject later. Can you remember that it was on the 25th, or might it have been on the 26th or the 27th that Schroeder visited you?

A It might have been the 24th, 25th, 26th, or 27th, I don't know. In any case, it was the end of May. It might have been on the 25th, I don't know.

Q Now, Professor, my final question. Yesterday in your direct examination you said that you submitted two papers for publication. Is that correct?

A Yes.

Q Now, can you turn to document book 12, document NO-128? It is a letter headed "Medical Academy of the Luftwaffe, Instruction Group, Science and Research, 7 July 1944", page 95. Subject: "Approval of the memorandum of Oberstabsarzt Professor Dr. Haagen and B. Credell: Experiments with a new dried typhus vaccine, second report."

That is at page 95 in the English, 97 in the German. I repeat. Subject: "Approval of the memorandum of Oberstabsarzt Professor Dr. Haagen and B. Credell: Experiments with a new dried typhus vaccine, second report."

Is it correct, Professor, if I assume that this second report was the last one?

A Yes.

Q The work approved on the 7th of July, 1944. We don't have that, but from document NO-123 we can see when you sent the paper in. That is your letter to the SS Main Office through Dr. Hirt on 9 May 1944, page 88:

"I enclose herewith a carbon copy of a paper on our experiments with typhus vaccine. The paper was sent as a manuscript to the Chief of the Luftwaffe Medical Service with the request for permission to publish it."

Professor, the paper mentioned in the document of 9 May 1944, is that the second report mentioned in the document of the 7th of July?

A Yes.

Q Then, on the 9th of May, 1944, you had only finished this report. This paper was sent as a final report to the Medical Inspectorate. This could not have included the vaccinations of the 25th of May 1944 recorded in this report here, not even if they had been performed. Is that correct?

A Yes.

Q Did you ever send reports to the Medical Inspectorate or report in any way about deaths?

A No; I was not able to report any deaths, because there were no deaths.

DR. TIPP: Thank you. No further questions.

THE PRESIDENT: Any other defense counsel any questions to propound to this witness?

BY DR. FRITZ (For Defendant Rose)

Q. Professor, I have only one question in connection with the question put to you this morning by the Prosecutor. Is it not correct that in the case of living vaccine the question has often been discussed whether the nonpathogenic germs can become virulent again? I may remind you of a discussion which took place on the occasion of the Luobock disaster, the tuberculosis vaccinations.

A. This question can be answered with several examples. For example, variola vaccine virus. For 150 years ago it was adapted to the calf and never changed again to become pathogenic to human beings and produce true smallpox. A second example is hydrophobia, a living vaccine obtained from rabbits is used. I am not aware of any person contracting hydrophobia from vaccination. A third example is the yellow fever vaccine which is produced by various procedures and has no doubt been used in millions of vaccinations. It has not been observed that it has reverted and become pathogenic to human beings. And as far as we have any experience with living, attenuated typhus vaccine from literature, I am thinking of the experiments, or rather vaccinations of Blanc, one cannot speak of any mutation. As a scientist, to be quite honest, I have nothing to conceal. I admit that our experience is not great enough yet. One must have millions of vaccinations before one can take the responsibility for this decision. To explain, a decision of the Reich Ministry of the Interior, I believe it was in 1934, was discussed a great deal in Germany at the time whether compulsory vaccination should be abolished or whether a different type of vaccination should be introduced, that is, tissue culture vaccine. The Ministry was of the point of view we know the old vaccine. It has been used in billions of cases, but we do not yet know, even though many vaccinations have been performed what may develop from this vaccine. That is, I think, against either

myself or any other scientist. I say quite openly that we are here quite openly at the limit of our knowledge.

Q From your answer I conclude, Professor, that you concede that it is not absurd for an expert to discuss the possibility of a germ becoming pathogenic for human beings again.

A Yes, that can be discussed, of course. In practice I know nothing positive about it.

MR. FRITZ: No further questions.

THE PRESIDENT: Are there questions by any other defense counsel? Apparently there are none.

RECROSS EXAMINATION

BY MR. MC HANEY:

Q Professor, a hypothetical question. If one inoculates two persons of similar physical ability and health, one with 1/2 cc. of vaccine, by intermuscular or intravenous injection and the other by 1/2 cc by scarification, in which person would you expect there to be the more serious reaction to the vaccination?

A You said if one vaccinated two people, and I didn't quite understand with vaccine? Would you mind repeating what you said? Intramuscularly and intravenously, you said. And a third person —

Q Let's start again, Professor. We have two persons. We vaccinate one with 1/2 cc of typhus vaccine and just for simplicity we will make it your typhus vaccine, by injection. The other person we vaccinate with the same vaccine and the same quantity, namely, 1/2 cc by scarification. In which of these two persons would you expect the stronger reaction?

A If we inject 1/2 cc. of the vaccine intramuscularly, we know exactly the amount which has been introduced, but if as you say, Mr. Prosecutor, we introduce 1/2 cc. by scarification, I must tell you that that is not a quantitative vaccination. Only very small quantities of the vaccine are used in scarification. It is a superficial method.

It doesn't even bleed. It is in the epidermis, and 1/2 cc. can't be introduced that way.

Q Then you can't answer my hypothetical question?

A If you insist on 1/2 cc. I cannot answer the question.

Q Let's change the quantity to one which you could introduce by scarification.

A If we vaccinate by scarification we can expect that the effect of the vaccination will be the same as if we inject subcutaneously or intramuscularly.

Q In other words, the method of applying the vaccine would have no effect on the reaction of the person vaccination.

A It is again a hypothetical answer. You asked a hypothetical question. It can be assumed that the reactions will be the same.

Q I understood your testimony on direct examination yesterday that in your group of 40 test persons in Metzweiler, the first and second vaccination; is that correct?

A That the scarification vaccination was reaction after intramuscular injection? Did I understand you?

Q No. Now I am asking you about the quantity of vaccine, and I understood your testimony to be that you gave them a larger quantity of your vaccine in the first two vaccinations by injection than you gave them on the last vaccination by scarification; am I correct?

A Yes, that's right.

Q This was the same vaccine used for the three vaccinations?

A It was the same vaccine for the three vaccinations; yes.

Q It is very clear. Thank you. Now I will pass up again Document NO 3852, Prosecution Exhibit 521 for identification.

DR. TIPP: Mr. President, I object to the use of this document. This morning Mr. McHaney concluded his cross examination. I believe in re-examination he can only go into questions developing out of the re-direct examination. I don't believe he can bring up new questions and new documents.

THE PRESIDENT: Just what document is this? I understand this has been under considerable discussion all afternoon.

MR. TIPP: I beg your pardon. I misunderstood the number.

THE PRESIDENT: Am I correct, counsel?

MR. MC HANEY: Yes. This is the notebook on the —

THE PRESIDENT: We have taken considerable time on that.

MR. MC HANEY: Yes. I am about to conclude right now.

BY MR. MC HANEY:

Q Will you turn to page 3? Do you find the entry for 14 May?

A 14-5.

Q 14 May, yes.

A The second entry, yes.

Q And you see in parenthesis two weeks?

A Yes.

Q That means the period of time this vaccine had been stored, namely, dating from 30 April 1943, doesn't it?

A Yes. I can assume that.

Q And for 26 May four weeks means that it is four weeks it has been stored, is that correct?

A That must be right, according to the dates.

Q And for October 43, parenthesis six months, that is six months dating from roughly the first of May, isn't it?

A That's right. It says six months, yes.

Q If you drop down to the next entry which reads 27 January 1943, parentheses 9 months, that is nine months dated from the first of May 1943, isn't it, Professor?

A That's right, yes.

Q So that indicates quite clearly that Miss Crodell had that same failing which most of us do have and carried over the date of the old year during the first month of the new year, isn't that right, professor?

A Yes, but afterwards there is an entry, 27 January, 1944, and it says 9 and 8 months. That's right.

Q But she did make a mistake at that time, isn't that correct, doctor?

A I don't know. I can't see that from the document. There are so many inaccuracies in here that I can't be definite about anything in this document.

MR. MC HANEY: No further questions.

THE PRESIDENT: Now that we have referred to that document again, there are apparently differences between the English and the German. Under the entry on page 4, 14 May 1943 there is an omission indicated by a question mark in the English, while there are the figures 7.5 in the German. And in the last paragraph of the document which has been under discussion it seems that there are some words in the German which have no equivalent in the English. I might be wrong about that, as I am not familiar with German, but I wish those translations to be checked and the English and German compared.

MR. MC HANEY: We shall do that.

THE PRESIDENT: Any further examination of this witness?

The witness is excused from the stand.

The Tribunal will now be in recess until 0930 o'clock tomorrow
Saturday morning.

THE MARSHAL: The Tribunal is now in recess until 0930 o'clock
tomorrow morning.

1947
21 June-M-FL-1-1-Sampson

Court No. I, Case I

Official Transcript of the American
Military Tribunal in the matter of
The United States of America, against
Karl Brandt, et al, defendants,
sitting at Nurnberg, Germany, on 21
June 1947, 0930, Justice Beals, pre-
siding.

THE MARSHAL: Persons in the courtroom will please find their seats.
The Honorable, the Judges of Military Tribunal I. Military Tribunal I
is now in session. God save the United States of America and this honorable
Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, have you ascertained if the defendants
are all present in court?

THE MARSHAL: May it please Your Honor, all the defendants are pre-
sent in the court.

THE PRESIDENT: The Secretary General will note for the record the
presence of all the defendants in court. Do I understand that the wit-
ness Ernst Mettback is available this morning?

MR. HARDY: Yes. It is my understanding that at the completion of
Mettback's testimony, the defendant Haven's case will be heard.

DR. STEINBAUER: (Attorney for Defendant Beiglbach)

I ask permission, if it may please the Tribunal, to call the witness
Ernst Mettback to the stand.

THE PRESIDENT: The Marshall will summon the witness Ernst Mettback.

ERNST METTBACH, a witness, took the stand and testified as follows:

BY JUDGE SEBRING:

The witness will stand, raise his right hand and be sworn:

I swear by God, the Almighty and Omniscient, that I will speak the
pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

THE PRESIDENT: Counsel may proceed with the examination of the
witness.

DIRECT EXAMINATION

BY DR. STEINBAUER: (Attorney for Defendant Beiglboeck)

Q Witness, what is your name?

A Ernst Mettbach.

Q When and where were you born?

A 30 April, 1920, in Fuerth.

Q Where do you live?

A Eschenau 10.

Q What is your profession?

A Merchant.

Q What nationality are you?

A German.

Q What is your religion?

A Catholic.

Q Were you in a concentration camp?

A Yes, from 6 June, 1944, I was arrested in Fuerth by the Gestapo, and was taken to the police prison in Nurnberg. Five days later I was taken to Auschwitz. About six weeks later I went in a transport of roughly a thousand gypsies to Buchenwald.

Q How were you accommodated in Buchenwald?

A We were in a tent camp; the accommodations were very poor because there were many people in Buchenwald; and we were glad when we were put in the transport because we had to sleep on the ground and had only a few blankets.

Q How did it happen that you took part in the sea water experiments?

A At a roll call at Buchenwald we were asked whether fifty volunteers -- whether forty volunteers would care to go to a special commando to Dachau. I thought this over; Dachau is nearer Fuerth than Buchenwald; perhaps I would get a better set-up, perhaps more food and more freedom, so I and thirty-nine others volunteered for the commando

to Dachau.

Q.- What did you think this commando would be?

A.- We thought this would be a bomb commando because there were lots of bombs dropped around Munich; at that time we thought we would be employed excavating bombs.

Q.- Did you think this would be dangerous?

A.- We knew that excavating bombs was dangerous, but we nevertheless wanted because we knew we would receive more food and more freedom.

Q.- How many gypsies were there when this request went out?

A.- There were in total one thousand who went from Auschwitz to Buchenwald.

Q.- Then, there were a thousand men there, of whom forty applied; is that right?

A.- Yes.

Q.- Was any duress put on these forty persons?

A.- No. Every one was very eager to be among those forty. Hundreds and hundreds approached this man urging him to accept them, and I was fortunate enough to have been chosen for this commando.

Q.- How and when did the transport from Buchenwald to Dachau take place?

A.- On the 8th or 9th of August we arrived at Dachau on a special transport; we spent the night in the bathhouse; the next day we were deloused; and we were given clean clothing and were sent to the quarantine station.

Q.- How were you accommodated for these days when you were in Dachau, before you went to the sea water station?

A.- In the quarantine station every one had his own bed and received regular camp food.

Q.- Were you given a medical examination and x-rayed?

A.- On the next day we did receive a special medical examination and

also were x-rayed; then we were sent back to the quarantine camp.

Q.- Where did you go from there?

A.- On the next day we went to the hospital station I/1.

Q.- How did you like this station?

A.- We were very pleasantly surprised by the cleanliness there, and above all we were happy that every one had his own clean bed.

Q.- Did you make the acquaintance of one Professor Doctor Beiglboeck?

A.- Yes, on the next day Dr. Beiglboeck came to us.

Q.- What did he tell you?

A.- He introduced himself; he told us that this was an experiment-- if a flier falls into the water, he has to live on the water for some length of time; he told us we had to drink sea water for a while; that we would receive good care so that we would recover; afterwards he told us we would be very thirsty, but that we need have no fear, nothing would happen to us; no one would die; and then he told us that he himself had drunk sea water himself. Then, we talked this over among ourselves and felt we had confidence in the Professor, and declared our willingness to participate in the experiment.

Q.- Did the Professor then give you another physical examination?

A.- Yes, he examined every one from tip to toe.

Q.- Did he make substitutions?

A.- Yes, as I remember, he did make substitutions for two or three who were too weak. He wanted to make a substitution for me, too, but I asked him particularly to keep me in the experiments because I wanted to stay with my relatives who were there and, moreover, I didn't want to lose the promise privileges we were promised.

Q.- Then you had relatives in there? There was another Metzbach in the experiment?

A.- Yes, that was a relative of mine.

Q.- Could you recognize the professor if you saw him again?

A.- Yes.

DR. STEINBAUER: Mr. President, may I ask the witness to see if he can see the professor among the defendants?

THE PRESIDENT: The witness may stand up and see if he can pick out the professor, defendant Beiglboeck. If he cannot from his witness chair, he may step out in front of the dock.

A.- Yes, I see him. There he is over there, this short fellow here.

THE PRESIDENT: Indicate to the Tribunal the position of the defendant whom you identify as Beiglboeck in the dock by counting from your right.

A.- He is in the second row, the third man from the right. First there is a woman and then another gentleman and then Professor Beiglboeck.

THE PRESIDENT: The witness may be seated. The record will show that the witness had correctly identified the defendant Beiglboeck.

BY DR. STEINBAUER:

Q.- What sort of food did you get?

A.- For three or four days we received the regular camp diet and then from then on we lived like kings. In the morning we got marmalade,

margarine, coffee, sugar, 250 grams of black bread. In the morning, at ten we got a half a liter of unskimmed milk with cakes, cookies -- 20 to 25 cookies. At noon, we received a half liter of soup, goulash, potatoes and one slice of bread. At four o'clock p.m. we got 250 grams of bread or five rolls, black coffee with sugar. In the evening we got an egg, a piece of cheese, 30 grams of good butter, potatoes with soup, black bread and tea.

Q.- How long did you get this sort of food?

A.- Exactly one week.

Q.- Do you know the nurse Max?

A.- Yes, he was the one that stole our food and when we complained about Max, the Professor removed him immediately.

Q.- Did Professor Beiglboeck concern himself personally about the food?

A.- Yes, he checked on the food daily. I can remember very clearly that once a can of meat came to us which was discolored, being black, and the professor immediately had it exchanged for another.

Q.- Now, before the experiment proper began did the professor carry out other examinations?

A.- Yes, there was daily blood analysis. Urine was measured and stool -- blood pressure -- and people were weighed daily.

Q.- Did this hurt?

A.- No, it didn't.

Q.- What did the scale look like? Could persons be weighed on it prostrate?

A.- No.

Q.- Were you weighed daily?

A.- Yes, every morning.

Q.- Who wrote down your weights?

A.- I think it was written down by two French medical students. They also measured urine and stool -- that is to say, wrote down the

statistics on that.

Q.- Into how many groups did the professor divide them into?

A.- As far as I can recall, five.

Q.- After he had divided them this way, did he examine them again?

A.- Yes, they were all examined again.

Q.- What group were you in?

A.- I was in the Schaefer group, so far as I remember, and I had Experimental Number 9 and my relative had the number 10.

Q.- What's your relative's name?

A.- Mottbach, just like mine.

Q.- Could the persons who were not in the experiments move around in the courtyard or did they have to remain in the barracks?

A.- In the preparatory period we could all take walks in the courtyard but during the experiment only those whose experiment had already been interrupted or concluded could walk around and those people had to eat in the courtyard so that the persons in the experiment wouldn't see them eating.

Q.- Did the professor himself drink sea water?

A.- I don't know for sure but I believe my comrades told me that before the experiment began the professor first drank sea water so that my comrades wouldn't have the idea it might be poison.

Q.- Well, did you ever actually get in the experiment yourself?

A.- No, I didn't. I dropped out of the experiment in the preliminary period. This was on the fourth or fifth day. I suddenly got a fever. I was taken right to the x-ray station and I was examined there for pneumonia. I received treatment and aspirin tablets. After two or three days I was taken to Station III/2 which was the internal station. There the professor asked about me the next day and asked me how things were going. Three days later I got up and met the professor in the corridor in front of the washroom. He greeted me and asked me whether I was in good health again. I told him that everything was going along all right

and asked him whether I might not visit my comrades. Beiglboeck allowed this and every day I was permitted to visit my friends.

Q.- But what conditions did he make when you visited your comrades?

A.- He told me that I should under no circumstances bring them any fresh water and I should behave because they weren't allowed to drink any fresh water but had to drink sea water.

Q.- Then where were you actually accommodated during the experiment?

A.- I was accommodated in Station III — that was the station for internal diseases — in Room 2.

DR. STEINBAUER: Your Honors, may I please ask the Tribunal to take the sketch which the witness Pillwein drew? This is the ground plan of the camp. It is important. This is Exhibit 21. It's important to ascertain how far the sea water station was from the station in which the witness Mattbach was accommodated. If the Tribunal would be so gracious as to look at this chart —

THE PRESIDENT: Will you give us the volume and page in which this chart may be found?

DR. STEINBAUER: This is page 125 of Document Book No. 2. That is Beiglboeck's Document No. 2, I assume.

Where the sea water station is we have already discussed. Now, the sick room is Block No. 1, right across from the sea water station. Then there is a blocked street and then you can see block No. 3 (internal station), Wards 2, 3 and 4. The witness Mattbach has said that this is where he spent his nights. I further draw the attention of the Tribunal on this occasion to the fact that on the sketch, at the top, under the word "Appellplatz," which means "roll call courtyard," there is the sickroom, Surgical "A", to the right.

BY DR. STEINBAUER:

Q.- Now, witness, how far was your room in Block 3 from the sea water station?

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A.- About thirty pieces.

Q.- Thank you, Please tell us what you saw during the experiments when you visited your friends during the day.

A.- My comrades told me above all they were very thirsty and hungry and they asked me if I couldn't bring them a little water. They smoke quite a few cigarettes. They gave me some because I wasn't allowed to smoke in my sick station. They told me that they had to drink sea water and receive dextrose and such things -- this looked like chocolate but it wasn't -- that they were weighed daily and that they were thirsty. As I said, they did a lot of sleeping and were nervous. I could not do much talking with my friends because most of the time they were lying on their beds asleep.

Q.- The professor forbade your bringing them water. Did you, nevertheless bring them water? Now, be honest.

A.- Several times I brought my relative Mattbach water to drink.

Q.- Where did you give it to him?

A.- Sometimes I smuggled it in to the experimental station myself. Sometimes I stuck it in through the fly screen which was a little bit loose on the window.

Q.- Could the experimental subjects receive packages?

A.- Yes, they could. I myself received none because I was only in Dachau for a short while and the mails took too long. One Taubmann and another man named Bamberger received packages every week.

Q.- Where these packages given to the experimental subjects during the preparatory period?

A.- The experimental subjects did receive the packages during the preparatory period. During the experiment proper they did not receive the packages. They were saved up for them until after the experiment.

Q.- Now, when the experiment was over, did the people recover rapidly, or did it take a long while?

A.- Since they all received good food, they recovered very quickly.

Q.- Do you know that some of the experimental subjects repeated the experiment?

A.- Yes, I remember some who double-crossed the Professor by drinking water. The Professor raised a big rumpus about that and gave them no cigarettes, took their cigarette ration away. Then, they promised not to do it again and asked to be allowed to repeat the experiment because they didn't want to lose the promised privileges after the experiment.

Q.- Did you see any bodies carried out of the experimental station on a stretcher?

A.- No.

Q.- Were persons who weren't dead carried out of the experimental station on stretchers?

A.- Yes, and they were taken to the electro-cardiograph station and then I was carried to Station III.

Q.- Did you observe how these people looked when they were being carried? Were they covered or were they open?

A.- Mostly, they were covered because they had to be carried past the wash room, and fresh water was running there all day long. So that they shouldn't see this water, they were covered over with a white sheet.

Q.- Did you see cramps, or convulsions, or raving?

A.- No, and I never even heard of that.

Q.- One gypsy is said to have laid on the floor for an half an hour in cramps and finally had to get back into his own bed by himself.

A.- I don't believe that is so because if it had happened, my comrades would certainly have told me about it.

Q.- Would the comrades let the man lie on the floor half an hour?

A.- That is out of the question. That isn't the way they acted.

Q.- Did some of the experimental subjects have diarrhea during the experiment?

A.- In the preparatory period some of them did have diarrhea, probably because they couldn't stand the good food; but during the experiment, no.

Q.- Were blood samples taken?

A.- Yes, daily.

Q.- Who did it?

A.- Usually Professor Beiglboeck. I'd like to remark here that the Professor, when he did take the blood samples, was very tender and gentle. I myself can judge that. I have received injections in other camps, usually by SS-men or nurses, and they were very careless.

Q.- Did you see punctures given in the abdomen?

A.- In some of my comrades, I saw that on the right side, they were covered with adhesive tape; I asked them what it was, and they said they had received an injection.

Q.- Did they tell you that that hurt?

A.- They said it wasn't as bad as having a tooth pulled.

Q.- Did you ever hear that experimental subjects drank dirty water?

A.- No, I never did, and if it had happened, the comrades would certainly have told me.

Q.- How did Professor Beiglboeck treat the subjects as a whole?

A.- We were treated very well. He was very attentive.

Q.- Didn't he curse and scold?

A.- Well, some times when a person drank water behind his back he did curse a bit, but he recovered his good humor almost immediately every time.

Q.- Did he pass out cigarettes?

A.- In the preparatory period, we received two or three cigarettes a day. During the experiment, the Professor gave us as many cigarettes

as we wanted. He was passing them out all the time.

Q.- Did you remember that there were also Austrian gypsies in the experiment?

A.- Yes, I do. I can't tell you for sure how many there were. I think it was about 10 or 15. And there were also Burgenlaenders there.

Q.- And what language did they talk?

A.- Usually we talked the gypsy language. When we talked to the Professor, we all talked German.

DR. STEINBAUER: May it please the Tribunal, under Exhibit No. 35, I should like to put in pictures of the experimental subjects. The Prosecution already has a copy of this, so that I may have these photographs identified by the witness.

MR. HARDY: May it please Your Honors, the prosecution must object to the introduction of these photographs until they are substantiated. The original photographs are not available for the Tribunal, and it is rather difficult to ascertain if these photographs are the actual photographs taken. The original photographs have markings on the backs thereof, and the prosecution desires to see the originals. If they are available, then I have no objection.

THE PRESIDENT: Has defense counsel the original photographs?

DR. STEINBAUER: Of course, and there is nothing on the backs of them. I showed them to Professor Alexander once, and the thing on the back was the trade mark of the firm that made the paper. I should have been only too glad to find names on the back so I could have identified them.

THE PRESIDENT: The prosecution may examine the photographs.

MR. HARDY: May I ask the defense counsel where he secured these?

THE PRESIDENT: Can defense counsel answer the prosecution's question?

DR. STEINBAUER: Before Easter when I was in Vienna, I found these

photographs among the papers and what-not that had to do with sea-water. They were in the same place with these fever charts. I took them along with me and showed them to Mr. Beiglboeck and asked if they were the experimental subjects, and he said they were. Now, I'd like to have them identified by the witness so that he can say these really are the experimental subjects.

MR. HARDY: I have no further objection.

THE PRESIDENT: Counsel may hand the photographs to the witness.

A.- There is Reinhardt --

BY DR. STEINBAUER:

Q.- Mr. Mettbach, just wait a moment so that the Tribunal can follow you. Let's go through page by page.

THE PRESIDENT: What identification number, what exhibit number are you going to give to these photographs?

DR. STEINBAUER: Number 35.

BY DR. STEINBAUER:

Q.- Are the persons on the first page experimental subjects?

A.- Yes, all of them are. I recognize all of them. I don't know their names, but I do recognize their faces.

Q.- Now, let's turn to the second page.

A.- There I am on the second page here. First on the left at the bottom.

Q.- But you are very thin, emaciated.

A.- That is the way I am. I have always been thin.

Q.- Do you know any of these people?

A.- Yes, next to me is Reinhardt. Xaver Reinhardt is his name. The rest of their names, I don't know.

Q.- Page 3, are these experimental subjects?

A.- Yes, all of them. The first in the top row, on the left, is Bamberger, the next is my relative Mettbach, the third is Laubinger. The rest of them I don't know. I don't know the names of any of the

others. These must have been the Austrians, the other ones,

Q.- Turn to the next page.

A.- Yes, these persons were also in the experiment, but I don't know their names.

Q.- Go through these photographs page by page and tell me whether all of them are experimental subjects?

A.- Yes, they are. Yes, they were all there. I recognize a few of them. Page 5 I recognize these. That chap's name must be Franz, if I remember rightly.

THE PRESIDENT: On the photograph, which do you identify as Franz, witness?

A.- Page 5. There are two pictures, both of them are Franz.

BY DR. STEINBAUER:

Q.- What is being done to Franz there?

Q What is being done to Franz there?

A In the lower picture he is having a blood sample taken. I don't know by name anyone on page 6. I don't know the man's name on page 7 either. On page 8 I don't know the names. On page 9 I recognize the people. The man lying down in the top row in the middle is Henreiner, and the picture next to that is also Henreiner. Below that is a Frenchman; I recognize him. And here is a little gypsy that was the youngest one there, the Professor's favorite. We called him the Parrot, Papagei. He is standing next to the Frenchman.

Q Witness, were these experimental subjects strong persons or weaklings?

A You can see from the pictures that they are all strong. I was the weakest one of them all. You can see that they are strong, healthy people in these pictures.

Q Didn't the Professor want to eliminate you because you were so weak?

A Yes. As I told you, he did try to eliminate me, but I asked him to keep me in the experiment.

Q The last two pictures are not pictures of experimental subjects. Those are two prison doctors, aren't they?

A Yes, I recognize these. One of them is a Frenchman. He is taking blood pressure here. Next to him is the little fellow I told you who was called the Parrot. He is a gypsy, and the other chap with the microscope is also a Frenchman. They were not in the experiment.

Q Yes, I wanted to make it clear that they were not in the experiment.

A No, they were simply helping the Professor.

Q Now, let us go on. Were minors among the experimental persons? You just spoke of one from the Burgenland.

A Yes, that was the Parrot. There were other young people there but they were 20 to 25 years old.

Q Were these minors that you just mentioned strong or weak

physically?

A They were all strong.

Q Do you know in what experiment, to what experimental group they were assigned?

A As far as I know the minors were put into the group where the experiments were the easiest.

Q What language did you speak among yourselves?

A Mostly in gypsy language.

Q What was the citizenship of the individual experimental subjects?

A Mostly they were Germans. There were a lot of Austrians and a lot of them came from East Prussia and Upper Silesia and the Burgenland.

Q You said that you were sick. During the experiment were other subjects brought to the hospital?

A No, only I was.

Q Were there SS doctors in the experimental station?

A Never. I never saw one there.

Q What doctors did you see in the station 3 where you slept?

A These were mostly prisoner doctors and prisoner nurses. The senior doctor of the hospital was an SS doctor named Hintermeyer. This man was a very bad man. He sent people who were still very sick back to work.

Q Now, when the experiment was over did the subjects receive decent food?

A Yes. First of all they received diet food; they were on a diet first of all, and then they received the good food that they had received before the experiments that I described.

Q Now, these were simple people in the experiment. Were they constantly afraid of death or did they fear that they were on the point of death all the time?

A No, they didn't have to and they didn't, because the Professor

assured us that no one was going to die, that nothing was going to happen to us, and we had complete confidence in the Professor.

Q Could a man stop the experiment whenever he wanted to, or did he have to ask permission?

A The Professor examined the persons daily and when he saw that things were going badly with them, then he interrupted the experiment himself.

Q Do you think anybody died as a consequence of the experiments?

A That is completely out of the question. I met all of my comrades later in the streets of the camp.

Q How long were you there after the experiments were terminated?

A I was let out a few days before the end of the experiments, let out from the sick room and then I was sent to Block 22. I was there for two or three days and then all my comrades returned. Some of them also went to Block 22 and the others went to other blocks, but we met all the time and we talked about the commando we were about to receive and were happy that things were going to go better for us now.

Q I must tell you that a witness said here that three days after the experiments were over, one of the experimental subjects suddenly died.

A None of the experimental subjects died three days after the experiment. It might have been another gypsy. There were lots of other gypsies in the camp Dachau.

Q Now, I am asking you very explicitly and I remind you that you are testifying under oath. You know what the consequences can be if you perjure yourself. Do you consider it out of the question that any of the gypsies died, or do you think that it is perhaps possible? What do you know about this?

A As far as I know I can only say that none of the experimental

subjects died. I know absolutely for certain that I met every one of them in the camp streets afterwards and spoke with them.

Q Would anyone have told you if Max, Hoyer or Huber or somebody had died?

A No, if anybody had died, of course, that news would have spread through the camp immediately. There would have been a little uproar among us if that had happened, but it didn't.

Q Did the people really receive this good food that you have been talking about?

A Yes, of course they really did.

Q When after the experiment?

A Three or four days after the experiment they got the food. First they were on a diet and then they received this good food that I mentioned.

Q Do you know whether Professor Beiglboeck, after the experiments, did something in behalf of the gypsies?

A So far as I know the Professor got in touch with the camp commander, but I can't tell you this for sure because all of a sudden I was sent out of Dachau in a large transport, and I didn't know at the time where it was going. Then, to my horror, I found myself in Mauthausen.

Q Since you mention Mauthausen how did things go with you there?

A I had terrible experiences there. I had to work first of all in a quarry, and then was sent to the outlying camp Melk. There I stayed for seven or eight months; then in Easter of '45 I was taken back from Melk to Mauthausen and then, on the 5th of May I was liberated by the American troops.

Q When you were taken back from Melk to Mauthausen did any die then?

A That was the worst night of my life. We were called up at 5:00 in the morning. We were all sick and weak. Then the train went back to Mauthausen and it took all night. Thirty-six people died in

the car in which I was before we reached Mauthausen.

Q Now, let's get back to the experiments. Do you know that there was a liaison man that Beiglboeck appointed between him and the experimental subjects?

A Yes, there was. He had been in the camp for quite a while and knew his way around the camp. He was the oldest one among us.

Q Do you know whether any of the subjects had the so-called escape point?

A Yes, two of them. Bamberger was one of them.

Q They did have escape points?

A Yes, they did.

Q Do you know how the Professor treated these people?

A The Professor promised them that if they finished the experiment they would have the escape point taken away from them, and this would have made things much easier for them because people with the escape point couldn't move around freely in the camp.

Q That point meant that they had attempted to escape. Were there, among the experimental subjects, persons who had been in the Army?

A Yes, I think once two gentlemen from Munich came. I think they were from the Gestapo, and they asked us about our families. I think they were looking for reasons to let us leave the camp. I think one of them told them that he had the Iron Cross, second class.

Q Were you in the Wehrmacht yourself?

A No, but I was in the Reich Labor Service.

Q Do you remember a nurse from Vienna, a young fellow?

A Yes, he talked the same dialect as the Professor speaks.

Q Was his name maybe Pillwein?

A I don't know his name, but I believe this was the nurse who took Max's place when Max was fired.

Q What triangle did the gypsies wear?

A They all wore black.

Q What triangle color did you wear?

A Black.

Q Weren't there gypsies with the brown triangle?

A That was earlier. Then in 1940 that brown triangle was done away with.

Q What did the brown triangle mean?

A That also meant asocial and slackers.

Q How did you get into the concentration camp?

A I was alleged to be asocial. I was taken to the concentration camp without really knowing why, probably because I am a gypsy.

Q After the liberation in 1945 did you meet any of these gypsies later?

A Yes, once I met Henreiner.

Q What did he tell you?

A He told me that things were going badly with him at the moment. I asked him where he lived. He said in the neighborhood of Augsburg and was a worker there. He said that on his upper thigh he had had an operation. He had been used for a plegmone experiment and then we just talked shop and that was all.

Q. Did he curse about the sea water experiments?

A. No, not exactly curse. He did say, however, that he was not being very well treated after he had done so much in the experiments.

Q. Did you meet anybody else?

A. Yes, I met Reinhardt.

Q. Did you meet Laubinger and Bamberger?

A. No, I never saw them again.

DR. STEINBAUER: I have no further questions.

THE PRESIDENT: Have any other defense counsel any questions to propound to this witness? There being none, the Prosecution may cross examine.

CROSS EXAMINATION

BY MR. HARDY:

Q. Witness, on the 6th of June 1944, when you were arrested by the Gestapo, were you told the reasons for your arrest?

A. No, I was given no reasons, but I assumed that I was arrested because I am a gypsy.

Q. You were arrested and placed in a concentration camp simply because you were a gypsy, is that right?

A. Yes.

Q. Had you ever committed any crimes prior to that time?

A. No, but I once was fined for breaking a work contract.

Q. You were never in jail for any other criminal offense before the 6th of June 1944?

A. Yes, I had 3 months in jail for breaking that work contract I just mentioned.

Q. When you arrived in the Dachau Concentration Camp you were on a special Commando detail, is that correct?

A. We were taken to the quarantine station immediately.

Q. But you volunteered to go to Dachau for a special commando, didn't you?

A. Yes; in Buchenwald we volunteered and that is why we went to Dachau. We were then sent to the quarantine station, and waited to be sent to the promised special commando.

Q. How many other gypsies accompanied you from Buchenwald to Dachau?

A. Exactly 40 in toto; 39 others and myself.

Q. Were they all volunteers for this special commando?

A. Yes, we all volunteered in Buchenwald.

Q. When you arrived at Dachau you state you were given a physical examination. Who gave you that examination?

A. First we were examined by a prisoner-doctor. Then we were x-rayed.

Q. Who x-rayed you?

A. That also was done by a prisoner; that was the so-called x-ray Capo.

Q. Then you were asked to participate in the sea-water experiments?

A. No. First of all we were taken to I/1.

Q. That was the sea water station, wasn't it?

A. Yes, that was the sea-water station.

Q. There each one of you were asked if you wished to volunteer for the sea-water experiments?

A. Then Professor Beiglböck came and explained the experiment, pointing out to us that we would be very thirsty but that we need not be afraid; nothing would happen to us; nobody would die. Then we said we would be willing to participate.

Q. And he asked each one of you to volunteer?

A. We all 40 of us were there together and he explained this business to us. We talked it over among ourselves and declared our willingness.

Q. How many refused?

A. Nobody.

Q. Are you sure?

A. Yes.

Q. Think about that a moment. Are you sure again?

A. I am absolutely certain that no one refused.

Q. Everyone was happy that they were going to be subjected to sea-water experiments?

A. Yes, we were all happy about this. We were told that after the experiment we would receive an easy commando and given food and we would get cigarettes; after we heard this, we all declared our willingness.

Q. After you had received the physical examination, wasn't it true that they were going to drop you from the experiment?

A. Yes. Professor Beiglböck wanted to exchange me but I begged him to leave me in the experiment because I didn't want to be separated from my friends, particularly from my relative, Kettbach, and because I did not want to lose the advantages that had been promised.

Q. Is it possible that you were the only volunteer of the 44 men used in the experiment -- you were the only one that wanted to stay there because you had relatives there and didn't want to be separated from your colleagues?

A. No, we all wanted to be there.

Q. Did Laubinger want to be there?

A. Yes.

Q. Did Reinhardt want to be there?

A. Yes.

Q. How do you know that?

A. I was with them. We talked with each other.

Q. You don't suppose it is possible they didn't want to be there?

A. You are asking whether it is possible they did not want to be there -- those two?

Q. Yes.

A. No, they declared their willingness after we all had talked the matter over.

Q. Would you consider that they are careless with the truth if they are to say that you were the only volunteer?

A. We were all volunteers. We all applied for this experiment.

Q. Did you know each subject used in the experiment?

A. Yes.

Q. You know every one of them?

A. Yes, every one of them. I know every single one.

Q. Did you know their names?

A. In the experimental station I knew almost all the names but I have forgotten them in the meantime. I remember some of them but of course I have forgotten a great number of them.

Q. How many men were used in the experiments?

A. At first 40 men; then 3 or 4 more gypsies came from Dachau; in toto we were 44 people.

Q. Did you know Johann Anger?

A. Anger?

Q. Yes.

A. Spell it, please.

Q. A-n-g-e-r.

A. No.

Q. He was one of the subjects. I thought you knew them all?

A. I know them all. Maybe I have forgotten the name, but as far as I know I did not know this man, Anger.

Q. Did he volunteer?

A. Who, Anger?

Q. Yes.

A. We all volunteered.

Q. Did you know Paul Franz?

A. Franz? Yes, I recognized him in the pictures here.

Q. What's his nationality?

A. German. He was from Bremen, if I remember.

Q. You are sure he isn't Polish?

A. Franz? There is no possibility that Franz was a Pole.

Q. Were there any foreign nationals - that is, men other than

Germans, used in these experiments?

A. Austrians and Burgenlaender and some from Upper Silesia and East Prussia.

Q. No Czechoslovakians?

A. No.

Q. No Russians?

A. No.

Q. No Polish?

A. A couple of them talked Polish but I think they came from Upper Silesia or East Prussia. That very often happens. Lots of Upper Silesians can talk Polish. I can't tell you for sure.

Q. Was your number 91147 - your shipment number?

A. My Dachau number? I can't remember any more but I think it was 91147 or 91145, I am not sure.

Q. You lived in Furth before you were incarcerated in the concentration camp?

A. Yes, I was born there.

Q. You lived on Fischerstrasse?

A. Yes.

Q. On 9 August 1944 you left Buchenwald?

A. Yes, that is about right. It was either the 8th or 9th of August that we went to Dachau - it might even have been the 10th.

Q. When did you go to Mauthausen?

A. About the end of September or beginning of October.

Q. You are sure it wasn't the 11th of September 1944?

A. When I went to Mauthausen?

Q. That's right -- the 11th day of September 1944?

A. I can't say this for sure but I think it was the end of September.

Q. Would the records of the ... the Dachau records of the prisoner's transfers be incorrect if they said that on 14 September 1944 you were transferred to Mauthausen?

A. That I cannot tell you, -- whether they are wrong.

Q. When did the experiments end?

A. About the middle of September.

Q. And you had already gone to Mauthausen, hadn't you?

A. No.

Q. Then the Dachau records of the transfer of inmates are incorrect and you didn't leave on the 14th of September for Mauthausen?

A. That I cannot say for sure but as far as I know, the experiments ended about the middle of September and two or three days after the experiments were completed, according to your own testimony, is that correct?

A. I saw all of the subjects after the experiment. That I know for sure. It was a few days after that that I left. I was the first of the experimental subjects who left Dachau.

Q. So body could have died after you left, without your knowing about it, is that right?

A. That could be, of course.

Q. And if you left on the 14th of September, did you leave before the completion of the experiments?

A. No. This I know for certain. When the experiments were concluded I was still at Dachau.

Q.- What date were they concluded?

A.- That I don't know for sure.

Q.- Was Professor Beiglboeck still at Dachau when you left or had he gone back to Vienna?

A.- That I don't know. I saw Professor Beiglboeck for the last time when I was released from the hospital.

Q.- How did you happen to know his name to be Beiglboeck.

A.- I didn't know that at that time. I just found out here that his name was Beiglboeck.

Q.- You didn't know that when you were in the concentration camp?

A.- No. I didn't know his name in the camp.

THE PRESIDENT: I assume counsel that your cross examination will continue for some time?

MR. HARDY: This is a good breaking point, your Honor.

THE PRESIDENT: The Tribunal will now be in recess for a few minutes.

THE MARSHAL: The Tribunal is again in session.

DR. HOFFMANN: (Attorney for Defendant Pokorny)

Mr. President, may I ask to have the defendant Pokorny excused this afternoon because I need him to prepare his case?

THE PRESIDENT: Upon the request of Counsel for the Defendant Pokorny that he be excused from attendance before the Tribunal this afternoon, the Court grants the request, it appearing that it is necessary that the defendant consult with his counsel. His absence from the Tribunal will not prejudice his case.

DR. GALLIK: (Attorney for Defendant Hoven)

Mr. President, the Defense Counsel can speak to the defendant only in the morning and afternoon. Since the Court is sitting all day today, I would have no opportunity to speak to my client, Dr. Hoven. I can assume that my examination will be finished Monday, and then Dr. Hoven will be cross examined, and again I will be unable to speak to him, as I will be unable to speak to my client at all during the examination. I assume that some questions will come up during the direct examination. Therefore, I wonder whether it would not be possible for the Court to rule that I be allowed to see my client this evening or tomorrow morning.

THE PRESIDENT: Counsel may consult with his client Hoven this evening or tomorrow morning, subject to the regulations of security, which I presume can be arranged so that counsel may consult his client either this evening or tomorrow morning, or, both times if he desires to do so. That is a wish of the Tribunal -- I presume that security will conform to these directions; and the Court can arrange that counsel may consult with his client any evening next week -- whether the defendant Hoven is under direct or cross examination.

DR. GALLIK: Thank you.

DR. GIERL: (Attorney for Defendants Fischer, Gobhardt, and Obermaier.)

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Mr. President, the defendant Gebhardt has heart trouble, and the defendant Oberhauser is also ill. I submit a certificate by the prison doctor, Dr. Pfuecker, for the defendant Gebhardt; I shall bring a certificate for the defendant Oberhauser later, I request that these two defendants be excused from the session this afternoon.

THE PRESIDENT: Who is the defendant referred to on this certificate. You mentioned the defendant Oberhauser on both occasions.

DR. GIERL: Gebhardt and Oberhauser.

THE PRESIDENT: I note that this certificate of the surgeon refers to the defendant Gebhardt, and counsel referred to and mentioned the defendant Oberhauser. Will the certificate by the surgeon be filed in regard to the excusing of the defendant Oberhauser?

DR. GIERL: May I correct Your Honor. What I intended to say was that I shall bring a certificate for the defendant Oberhauser later.

THE PRESIDENT: And you desire them to be excused from attendance before the Tribunal this afternoon?

DR. GIERL: Yes, please.

THE PRESIDENT: Pursuant to the certificate by the prison official -- who is Dr. Pfuecker?

DR. GIERL: I am informed that Dr. Pfuecker is the prison doctor -- the German prison doctor/

THE PRESIDENT: These certificates are usually filed by the American prison doctor who is in charge of the defendants. If these defendants desire to be excused this afternoon, I suggest you procure certificates from the American surgeon in charge of the prison. Upon filing of these certificates, the defendants Oberhauser and Gebhardt may be excused from attendance before the Tribunal this afternoon.

DR. GIERL: Thank you.

BY MR. HARDY:

Q Witness, you know the name Robert Adler?

A I remember the name.

Q Did he come from Buchenwald in the transport with you to Dachau on 9 August 1944?

A Yes.

Q Was he of Polish nationality?

A No, he was not a Pole.

Q You are certain of that?

A Yes.

Q Why are you certain of that?

A Because I talked to him. I remember very well he talked German to me.

Q Is it possible that a Pole could speak German?

A It is possible.

Q You don't know whether or not he was Polish, do you?

A As far as I know he must have been from East Prussia.

Q Do you know Siegmund Grsbowski, spelled G-r-s-b-o-w-s-k-i?

A I don't remember the name.

Q You don't remember that? He came in the transport with you on 9 August 1944.

A It is possible but I don't remember the name.

Q You didn't know all the subjects that came with you on the transport, did you?

A I knew them by sight but I don't know all their names.

Q You don't know whether or not he was Polish, do you?

A What was the name?

Q Grsbowski.

A I don't know for certain.

Q Did you know Johann Vongilaj, spelled V-o-n-g-i-l-a-j?

A I do not remember that name.

Q Did you know Roman Gusew, spelled G-u-s-e-w?

A No, I do not remember that name either.

Q He was a Russian. Came on the transport with you from Buchenwald to Dachau.

A That's impossible. There were no Russians on our transport. We were all gypsies.

Q Could he have been a gypsy born in Russia?

A I don't think there was any Russian gypsy.

Q You really don't know, do you?

A No.

Q Did you know Jacob Bamberger?

A Yes.

Q He came on the transport with you, didn't he?

A No, he came from Dachau.

Q He was at Flossenburg before that, wasn't he?

A I don't know.

Q Didn't you know him?

A Yes, I knew him. I met him in Dachau.

Q He was a German, wasn't he?

A Yes.

Q You state that he volunteered for the experiments?

A Yes. He was present while Professor Beiglboeck explained the experiment to us and we all said we were willing. We could have gone back to the block if we wanted to and gone back to work.

Q If you had gone back to the block, would you have been treated as a saboteur?

A No. I would have been put to work.

Q Did any of your gypsy friends desire to be relieved of the experiments and upon requesting not to be used in the experiments was told by Beiglboeck that he would be hanged by Beiglboeck as a saboteur if he refused?

A No, that is impossible. Professor Beiglboeck never said that.

Q You never heard anything about that?

A No.

Q Could you state that your fellow gypsies used in the experiments were being careless with the truth if they state one of the men was refused and threatened in that manner?

A If they testified as a witness?

Q Yes, suppose one of the other gypsies stated that. Would you state they were telling the truth?

A Yes, I can say that that is not the truth. I never heard any such thing. I know that for certain.

Q It could have happened without you knowing about it, couldn't it?

A As long as I was in the experiment I never heard of any such thing. I am sure my comrades would have told me if such a thing had happened.

Q Do you know Siegfried Schmidt?

A Yes, I know Schmidt but I don't think he was in the experiments. He was at Dachau. His name was Schmidt.

Q What number were you in the experiment? Bed #9, weren't you?

A Yes.

Q Your relative was in bed #10, wasn't he?

A Yes, I remember that very well.

Q Who was in bed no. 8?

A Bed #8, that must have been Laubinger. Laubinger was in my group, too.

Q Laubinger was in bed #7. Who was in bed #8?

A I don't remember.

Q Do you know who was in bed #11?

A No, I don't remember.

Q Well, that was Siegfried Schmidt for your information, witness, in bed #11, and you don't remember him?

A No.

Q Just two beds away from you?

A I don't understand the question.

Q He was only two beds away from you and you don't remember Siegfried Schmidt?

A No, I don't remember him.

Q He was a German gypsy, born in Hamburg.

A I don't remember him.

Q Did you know Paul Hirschberg?

A No. I don't remember this name.

Q Did you know Edmund Hirschberg?

A I don't remember that name either.

Q Did you know Alfred Hoff, H-o-f-f?

A Hoff?

Q H-o-f-f, Hoff.

A No.

Q He came in the transport with you from Buchenwald, didn't he?

A I do not remember. I don't remember all the names. That was four years ago.

Q He was in bed #14.

A That's possible. I don't know. I don't know Hoff.

Q Did you know Oleskewitsch? I will spell that for you. It is a name that I can't pronounce too well. Spelled O-l-e-s-k-e-w-i-t-s-c-h.

A No, I don't remember that name.

Q You don't remember that name. Wasn't he one of the men who was used in the experiment but did not come from Buchenwald? He was in bed #17, witness.

A I don't know.

Q You don't know much about these subjects, do you?

A I can't remember all their names. I remember some names because I knew the people and they were easy names to remember - Samberger, Laubinger, Reinhardt.

Q This subject was a Russian gypsy. You don't know him?

A No.

Q Did you know Michael Durnow, spelled D-u-r-n-o-w? Also a Russian gypsy. He was in bed #20. Did you know him?

A No, I don't remember.

Q Did you know Victor Viljaew, spelled V-i-l-j-a-e-w?

A No. I don't remember that name.

Q Did you know Joseph Reinhardt?

A His name was Xaver Reinhardt, not Joseph.

Q Pardon me, I meant M-e-i-n-h-a-r-d-t, Joseph.

A No, I don't remember the name Meinhardt.

Q Did you know Raymond Papain, P-a-p-a-i-n?

A Unless it was this little gypsy whom we called Papagei (parrot). He came from Burgenland. He was the professor's favorite.

Q Why was he the professor's favorite?

A Because he came from Burgenland perhaps - because he was an Austrian. Maybe because he was young.

Q He was sixteen years old, wasn't he?

A Yes, that's about right.

Q Did you know Adolf Lafontaine?

A No.

Q Did you know Herman Mollanowsky?

A I don't remember that name.

Q That is a Polish name, isn't it?

A Polish names are hard to remember. I can't remember.

Q Well then, there were Polish people in the experiments, weren't there?

A I don't think so. They were mostly from Upper Silesia and East Prussia and there are many Polish names there.

Q Do you know Barriansky?

A No.

Q Strauss, Reinhold Strauss?

A I remember that name Strauss.

Q Do you know Fritz Rosinsky?

A No.

Q Karl Bernard?

A Bernhardt?

Q B-e-r-n-a-r-d.

A I remember vaguely but I am not certain.

Q You know Karl Steinbach?

A I remember that name, too.

Q You know Georg Papi, spelled P-a-p-i, P-a-p-a-i, pardon me.

A That must be the little gypsy, the young one. We called him Papagei.

Q Well, now he was subjected to sea water, wasn't he. Straight sea water in the course of the experiments, this young boy?

A As far as I remember he was in a very easy group.

Q Would you consider it an easy group to receive 500 cc of sea water to drink every day. Was that one of the easy groups. He was subject #37. That was one of the b-d groups, wasn't it?

A I don't remember.

Q Well, you don't know, do you, whether these young boys were used in the most strenuous groups?

A The young people were mostly put in the easy groups. As far as I remember the worst group was group one.

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Q.- Now, do you know Johann Reinhardt?

A.- No, not Johann Reinhardt. I know Xaver Reinhardt.

Q.- Do you know Stanislaus Paczkowski, P A C S K O W S K I ?

A.- I can't remember.

Q.- He was only two or three beds away from you. He was in bed No. 6.

A.- I can't remember those names.

Q.- Of course, you know Xaver Reinhardt?

A.- Yes.

Q.- Do you know Franz Klavda, spelled K L A V D A ?

A.- I don't remember that name.

Q.- He was a Czechoslovakian.

A.- No, there was no Czech there.

Q.- You're certain of that, are you?

A.- Yes.

Q.- Suppose he told you he was a Czech; would you disbelieve him?

A.- Yes, if he had told me he was a Czech, I would have believed him.

Q.- He was in bed No. 2. Did you ever get an opportunity to talk to him?

A.- I can't remember that.

Q.- Did you have to stay in bed all the time during that first week or could you walk around and go out into the yard?

A.- No, in the preliminary period we could go out in the courtyard and walk around and we could run around in the hospital, too. Mostly, I talked to the people that I knew best.

Q.- Did you know Karl Metzbach?

A.- Yes, that's a relative of mine.

Q.- He came from Oresen, didn't he, O r s e n ?

A.- As far as I know, he is from the Rhineland, near Eschwege.

Q.- Do you know where he was born?

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A.- No, I don't.

Q.- Did he ever tell you?

A.- No.

Q.- Did you know Franz Kubik, K u b i k.

A.- I remember the name.

Q.- Is he a Czechoslovakian gypsy?

A.- No, he was not a Czech gypsy. He had a dialect like an Austrian.

Q.- His records say he was a Czechoslovakian. Could you be wrong?

A.- I didn't see his birth certificate.

Q.- Do you know Karl Kraus, K r a u s ?

A.- No.

Q.- Ferdinand Daniel?

A.- No.

Q.- Karl Hoellenreiner?

A.- Hoellenreiner?

Q.- Yes.

A.- Yes, I know him.

Q.- Apparently, you don't know any of their names, do you?

A.- I can only remember the names that aren't so difficult and the people I know for a longer time. I know Hoellenreiner and Reinhardt.

Q.- Did you know any of the others by name?

A.- I remember Butschinsky.

Q.- Anybody else?

A.- Teubmann.

Q.- Teubmann? How do you spell that?

A.- T a u b m a n n.

Q.- After you had asked Professor Baughcock to be included in the experiment so you could stay with your friends in Luchenwald how long did you remain as an experimental subject?

A.- I fell sick on the third or fourth day, maybe the fifth day of the preliminary period. I suddenly had a fever.

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Q.- You got very sick on the third day, didn't you?

A.- I don't remember exactly. That's possible.

Q.- Then your fever went down on the fourth day. You didn't feel so ill on the fourth day?

A.- Yes, the fever went down and I didn't feel so bad but the next day the fever went up again.

Q.- The fever actually didn't go up until the seventh day again, did it?

A.- And then I was put in Ward 3, Room 2.

Q.- Then you never went through the experiment, did you?

A.- No, I never drank sea water.

Q.- Were you ever in the experimental station at night when the experiments were going on?

A.- After the preliminary period?

Q.- After the preliminary period.

A.- No, then I had to sleep in the hospital.

Q.- You don't know whether any of your gypsy friends were tied to their beds, do you, at night?

A.- No, I know nothing about that.

Q.- You were in no position to know that, were you?

A.- But I was there in the daytime and I was not there at night.

Q.- Where were you, in the experimental station in the building or out in the yard, when you came to visit in the day time?

A.- Sometimes I was in the garden and sometimes I was inside.

Q.- Did they keep the doors locked?

A.- The doors of the experimental station were often locked.

Q.- You told me that you got weighed every day during the preliminary period. Is that right?

A.- Yes.

Q.- Is it possible that you only got weighed every other day?

A.- No, no, I know exactly that we were weighed every day, always in the morning.

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Q.- Your records show you were only weighed on the first, third, fifth and seventh days and that you weren't weighed on the second, fourth and sixth day or the eighth day. Now, if Dr. Beiglbach's records are sufficient --

A.- I was sick.

Q.- Then you weren't weighed every day, were you?

A.- My friends were weighed every day. I saw it.

Q.- You told us you were weighed every day. Now, you weren't, were you?

A.- As long as I was not sick yet in the preliminary period I was weighed every day.

Q.- Then you were not weighed the days you were sick?

A.- On the day when I was sick I was not weighed.

Q.- You really don't know what days you were weighed, do you?

A.- Always in the morning.

Q.- Well, on the day that you were sickest, which was the third day, you were weighed that day and you weighed 50½ kilograms. Is that right? The days that you weren't sick, the second and the fourth and the sixth, you were not weighed. Then you were sick again on the seventh day -- considerably high temperature up to 39 -- and you were weighed again then and weighed 49.3 kilos; so you actually don't know when you were weighed, do you?

A.- I was weighed when I came in to the experiment and I fell sick on about the third day. I don't know exactly when but I was weighed every day and afterwards I got a fever. I can't exactly when.

MR. HARDY: I point out, Your Honor, in document, Beiglbach Exhibit No. 34, the charts A9, B9 and C9 are the charts pertaining to this witness and they indicate that the witness was only weighed on Chart A9 on the first day of the experiment, the third day of the experiment, the fifth day of the experiment and the seventh day of the experiment. The witness also testified in direct that he had urinalysis each day and

there is no record of that here.

Q.- Now, you say that any deaths were absolutely out of question in the sea water experiments?

A.- I saw all my comrades after the experiment.

Q.- Somebody could have died after you left Dachau without your knowing about it. Is that possible?

A.- That's possible. I don't know. I wasn't there any more.

Q.- How many men were unable to walk at the completion of the experiments?

A.- They could all walk. They were all sent back to the blocks.

Q.- Are you certain of that?

A.- Yes.

Q.- Other witnesses tell us that some of them couldn't walk. You don't agree with them?

A.- No.

Q.- You saw all 44 subjects, saw each one of them yourself?

A.- Yes.

Q.- You didn't see any of them being carried out on stretchers to the hospital barracks for treatment?

A.- No. Maybe afterwards when I wasn't in Dachau any more. I would not know.

Q.- You didn't see any of them helping the others go out of the experimental station -- that is, one holding up another simply because they were so sick they couldn't walk by themselves?

A.- Well, they were pretty weak, yes, but I never saw that anybody couldn't walk.

Q Did some of these Gypsies return to work immediately after the experiments were completed?

A When they were sent back from the experimental station to the blocks, I was in the camp only two or three days then I left. I don't know anything about it. But during the two or three days when I was in the camp, nobody had to work.

Q Do you know whether or not Laubinger went directly to work?

A Laubinger was in my block. He was sent to Block 22. I gave him some bread there.

Q Why didn't he go to the hospital?

A Why should he go to the hospital, he wasn't sick.

Q He was very weak, wasn't he?

A Yes, but not so weak that he had to go to the hospital.

Q He was afraid to go to the hospital? He actually was afraid to go to the hospital, was he not?

A No. The hospital in Dachau was very good. The treatment was very good. He didn't have to be afraid. I myself had been in the hospital. I was treated very well.

Q You really don't know what his attitude was, do you, you didn't talk to him about it?

A No.

Q What group was he in in the experiments?

A As far as I remember, he was in the same group as I was. He was in the bed next to me.

Q What did he drink?

A I am not sure what he drank. He only told me that he had to drink sea water. He was given dextrose and something called Schokk-Kola.

Q Did he get sick?

A Yes. When we left Auschwitz he had a carbuncle on his eye; and then in the preliminary period, he had some kind of an inflammation of the eye all the time.

Q Do you know when Dr. Beislböck left Dachau?

A No.

Q How often was Dr. Beislböck at the experimental station?

A He was there all day. He just went away to eat. He wasn't there at night, but the nurses were there at night and some French medical students who were on night duty.

Q What time did Dr. Beislböck leave in the evening?

A That varied. Sometimes after the evening roll call, sometimes at seven o'clock. That varied.

Q But he was never there during the late hours of the evening?

A I don't remember. After the roll call I had to go back to the hospital. I had to go to bed.

Q Now, in summation, witness, you stated that each experimental subject volunteered for the experiment, is that correct?

A Yes. We all said that we were willing.

Q You are certain of that?

A Yes.

Q Have you ever testified as a witness before a court before?

A On this subject, you mean?

Q On any subject.

A No, I have never been a witness.

Q Do you know the significance of an oath?

A Yes.

Q You swear that you are telling the truth here on this stand?

A Yes.

MR. HARDY: I have no further questions, Your Honors.

THE PRESIDENT: Defendant Counsel have any redirect examination?

REDIRECT EXAMINATION

BY DR. STEINBAUER:

Q Witness, the gypsies whom you mentioned, were they all able to read and write?

A No, most of them could not read or write.

Q Most of them could not read or write. And then before you were put in the concentration camp, were other relatives of yours in the concentration camp?

A Yes, my whole family. My father and my five brothers and sisters, they all died in Auschwitz.

Q Then you were the only one still at liberty?

A Yes, I am the only one of my family.

Q Where were you working?

A In a dynamite company in Fuerth. In Stabern near Fuerth.

Q Then you were arrested and interrogated by the Gestapo. What charges did the Gestapo make?

A They asked me about the work, and they said that I had been involved in deals with foreigners who worked there; and several times I failed to go to work. I had been convicted once for breach of work contract, and they took me to the police prison here, and five days later I was sent to the concentration camp.

Q When you met Hollenrainer and Reinhardt, did they tell you that three days after the experiments were finished someone died.

A No, Hollenrainer and Reinhardt always said nobody died. I asked them especially whether anybody died.

Q Do you know how the station was dissolved, or did it remain in existence?

A No, it was dissolved. I can remember some of my comrades helped Professor Beilboeck to clean up the station.

Q Did they tell you that anybody died?

A No, I asked about that. I saw all of them afterwards. The Germans in the camp always asked about it because they were interested.

Q The Prosecutor asked you about a person named Adler. Is that a German name or a Polish name?

A Adler is obviously a German name. There are many gypsies named Adler. They are all Germans.

Q Are Gypsies in the habit of keeping birth certificates and so on

with them very carefully? Do all gypsies always know where they belong?

A Well, many people don't know when they were born, or where they were born because they were born in a cart on the road; and most of them didn't go to school, they don't know how to read and write. There are very few who know how to read and write.

Q How about your urine, was it taken daily? You have to tell us about that because apparently something was not entered in the record.

A We had a urine glass that was a kind of museum, and in the back there was a big table. Every day in the morning, we had to put the urine glasses on the table. During the night it was collected, and we had to put the glass on the table in the morning, and either the nurse or some Frenchman weighed them or something - I don't know what he did - he measured it, how much it was. I think he measured the liters.

Q The urine was collected daily then?

A Yes, and the stool was collected daily, too. The stool was weighed daily.

DR. STEINBAUER: I have no further questions.

MR. HARDY: I have two more questions, Your Honors.

RECROSS EXAMINATION

BY MR. HARDY:

Q How many of these experimental subjects received the sea water by a stomach tube?

A I know nothing about that.

Q You actually don't know anything about the experiments as to the technical nature of them, how they were conducted, whether or not punctures were performed, and whether or not any of the inmates received sea water by a stomach tube?

A No, I didn't see that.

MR. HARDY: No further questions.

DR. STEINBAUER: Mr. President, I have no more questions.

THE PRESIDENT: If there are no more questions to be propounded, the witness Mettbach is excused.

THE WITNESS: May I sit in the audience now, Your Honor?

THE PRESIDENT: The witness may apply for a pass to the office where the passes are issued, but he will have to get his pass and enter the gallery by that method.

THE WITNESS: Thank you.

DR. STEINBAUER: Mr. President, I should like to conclude the Beiglboeck case, and state that the weight chart, which is number 23, which I showed the gentlemen in the course of cross examination because my client has the photostatic copies of all the fever charts; and I would like to prepare a new chart from these original curves which will show exactly the weight variations in each case, when he thought the person drank water, and the water, and the blood. These charts do not show this exactly.

MR. HARDY: This chart that has been drawn up, I wonder whether Dr. Steinbauer intends to offer that in evidence.

DR. STEINBAUER: Yes, I will offer this chart as an exhibit then.

MR. HARDY: Well, I object to the admission of that chart into evidence inasmuch as it was a chart that was drawn in this Nurnberg jail by the defendant, based on documents which have been altered. Furthermore, the charts and the books have gone over that thoroughly in the course of the cross examination of the defendant and the direct examination of the expert, Ivy. I see no reason for the charts to be further drawn up by the defendant inasmuch as he has amply testified concerning the matter, and I don't think the charts would be accurate that he would draw up at this time. The probative value would be deeply in question, and I object to the admission of such evidence.

THE PRESIDENT: What would be the purpose of this chart? Would it be added to the record which is already before the Tribunal?

DR. STEINBAUER: I don't want to submit this as an exhibit. I want

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to use it in the trial brief to explain the point of view of the
defense to the Tribunal. The exhibit remains, the fever chart.
This is just an explanation.

THE PRESIDENT: In the preparation of his trial brief counsel may include anything which he deems relevant and pertinent which will be of assistance in understanding the record as counsel contends it exists. Of course, everything in the brief must be based upon evidence which is before the Tribunal. Counsel understands that.

DR. STEINBAUER: Then I will withdraw this chart which I have offered in evidence as Number 23.

INTERPRETER VON SCHON: Your Honor, there seems to be something wrong with the earphones in the defendants' dock. The technician suggests that we take a recess of a few minutes.

MR. HARDY: Your Honor, Dr. Steinbauer is finished with his witness in his case Beiglboeck and the next case coming up will be the defendant Hoven. We could adjourn until 1:30 and with defendant Hoven's case start fresh at that time.

THE PRESIDENT: I would ask the Marshal that during the noon recess he will take up the matter of the consultation between counsel for defendant Hoven and defendant Hoven for security and arrange unobjectionable security. It is the wish of the Tribunal that counsel consults his client Hoven this evening and tomorrow morning if he desires.

In view of the trouble with the transmission system the Court will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 21 June 1947.)

THE MARSHAL: The Tribunal is again in session.

May it please Your Honors, defendant Pokorny is absent, having been excused by the Tribunal. The defendant Oberheuser and the defendant Gebhardt are absent due to illness, having been excused by the Tribunal.

THE PRESIDENT: The Tribunal has a certificate signed by Captain Martin, surgeon in U.S. Army, stating that defendant Oberheuser and defendant Gebhardt should be excused this afternoon on account of illness. They are excused from attendance before the Tribunal this afternoon. The Secretary General will file the doctor's certificate with the record.

Counsel may proceed.

DR. STEINBAUER (For the defendant Beiglboeck): Mr. President, having heard the witness Metzbach, I have concluded my case for the defendant Beiglboeck.

THE PRESIDENT: Very well, counsel. The Tribunal now calls the case against the defendant Hoven. Is counsel ready? Is counsel ready to proceed?

DR. GAWLIK (Counsel for the defendant Hoven): Yes. Mr. President, let me first recall to the Tribunal the fact that in the case of the defendant Dr. Hoven I have already heard the witnesses Piekk, Dr. Horn, and Dorn. As further evidence, and in further pursuance of this case, I ask permission to call the defendant Hoven to the stand.

THE PRESIDENT: At the request of his counsel the defendant Waldemar Hoven will take the witness stand.

(WALDEMAR HOVEN, a defendant, took the stand and testified as follows)

BY THE COURT:

Q. The defendant will please raise his right hand and be sworn, repeating after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. GAMLIK (Counsel for the defendant Waldemar Hoven):

Q. Your name is Waldemar Hoven, is that correct?

A. Yes.

Q. You are an M.D.?

A. Yes.

Q. When and where were you born?

A. 10 February 1903 in Freiburg in Breisgau.

Q. Please describe to the Tribunal your career.

A. I attended high school in 1918. I was graduated, went to southern Sweden at that time, working in agriculture, thence to Denmark until 1920. In 1921 I went to the United States and in 1924 I returned to Germany. After my return I took over the administration of my father's estate until 1930. 1931 to 1933 I went as a journalist to Paris. In the summer of 1933 I returned to Germany. My father died in 1930. In 1933 my brother died, who had been a doctor and died in our sanatorium. I then took over the administration of my father's sanatorium; the medical direction of it was to remain in the family. I prepared for graduation from high school and in 1934 I was graduated.

Then I studied medicine until 1939.

Q. What did you do in the United States?

A. I was an agriculture inspector.

Q. What further training does a doctor in Germany go through after finishing his studies?

A. For one year he is a medical intern.

Q. Did you go through this internship?

A. No, I did not.

Q. Do you have any specialized training as a doctor?

A. No.

Q. Did you belong to the General SS?

A. Yes.

Q. When did you join it?

A. 1934.

Q. Why?

A. On the basis of the laws at that time, only persons were permitted to study who belonged to the Party or one of its affiliations. I did not wish to join the Party and for this reason I joined the affiliation, namely, the SS. I had a friend by that time by the name of Albert Mutz who led the SS-Sturm in Freiburg. He told me that I simply had to join it formally in order to be allowed to begin my studies, and I had to do the regular SS duties.

Q What was your last rank in the General-SS?

A Unterscharfuhrer.

Q Was the Unterscharfuhrer a member of the Fuehrer Corps of the SS?

A No. There were three ranks between the Unterscharfuhrer and the Untersturmfuhrer and the Untersturmfuhrer corresponded in rank to a lieutenant.

Q Let us make this perfectly clear. At what rank did the Fuehrer Corps begin?

A I just said, with the rank of Untersturmfuhrer, which equalled lieutenant.

Q Until when did you belong to the General-SS?

A Until the 28th of August, 1939.

Q From what date on did you belong to the Waffen-SS?

A From the same date, 28 August, 1939.

Q Did you voluntarily join the Waffen-SS?

A No. I received an order at this day and I was drafted.

Q Is it true that you joined and belonged to the Waffen SS on the basis of a legal decree?

A Yes, that is so.

Q Why did you obey this order to be drafted?

A This was a military order which I had to obey, just the way everyone else had to obey such orders. It was a drafting similar to the drafting the army carried out.

Q What activities did you have in the Waffen-SS?

A First I was a common soldier in the Waffen-SS. On the basis of a legal decree, all doctors were extracted from the troops. On 26 October 1939 I went to Buchenwald as an assistant doctor to the troop doctor.

Q Why did you obey this order?

A It was a military order, that I had to obey.

Q What activities did you have in Buchenwald?

A I was assistant doctor to the troop doctor and was medically in charge of the guards.

Q In this capacity did you have any function in the concentration camp of Buchenwald?

A No.

Q During this activity did you enter the protective custody camp of Buchenwald?

A No. No, that was strictly forbidden. One needed a special pass to do so and only the camp doctors received that pass.

Q During your activities as assistant doctor for the guards there, did you know that in the protective custody camp any crimes were committed?

A No, I had no connection with the protective custody camp or the concentration camp.

Q When did your activities in the concentration camp Buchenwald begin?

A January 1941.

Q Why did you permit yourself to be transferred from the guards to the concentration camp Buchenwald?

A One day I received an order from Berlin and was thereby transferred to the concentration camp.

Q What was your first position in the concentration camp of Buchenwald?

A I was second camp doctor.

Q Who was the first camp doctor at that time?

A One Dr. Max Blancke.

Q Witness Roehhild testified here that when Blancke was still first camp physician, you occupied a very powerful position. That is page 1658 of the English transcript. Is that correct?

A What Roehhild meant is certainly the following: From the very first days of my presence in the concentration camp, I succeeded in doing a great deal for the prisoners, particularly for the non-

Germans, such as the Czechs, Dutchmen, Poles and Jewish prisoners. From this fact the impression might have arisen in Rosenhild's and other prisoners' minds, that I occupied a very powerful position. In reality, however, I was having great difficulties at this time in having my will carried out because I had to take my chief into consideration who was by no means a friend of the political prisoners. Officially I was subordinate to Dr. Blancke and he issued all the directives.

Q What was the situation at Buchenwald when you took over your activities as second camp physician?

A When I took over this job the situation there was far from satisfactory.

Q What improvements did you introduce during your activities as second camp doctor?

A I had many patients listed as so-called convalescents or out-patients. These were really in part convalescents and in part prisoners who were not strong enough for heavy labor. Then, without my chief nor the camp commander knowing the fact, I set up a Jewish hospital and carried out the treatment of ambulant Jewish patients there. At first this had to be done at night and later I arranged things so that it was possible to do this treatment during the day. I then improved the medicine supply system. I got surgical instruments which, in part, were my own private instruments from the sanatorium, artificial sun-lamps, etc. I then arranged that the prisoners could apply for sick-call at any time of the day or night and would then be treated. Incidentally, illegal baths were built into the barracks and the hospital without the knowledge of the camp commander.

Q Did you act contrary to the orders of the Inspector of the concentration camps and of the camp commander?

A Setting up the Jewish hospital and treating them was, at the beginning of my activities, strictly forbidden. Standard medical preparations could only be used for the SS troops.

Q What consequences could this disobedience on your part have had for

you?

A Well, the consequences that could come from disobeying an order of Himmler's have probably become well enough known to the Tribunal in the course of this trial. I do not believe I have to go into that.

Q When did you become first camp doctor?

A June of 1942.

Q How did that happen?

A I don't know myself. I was most surprised.

Q Describe your tasks and duties as first camp doctor.

A Medical care of the prisoners under me. At least that is how I construed my tasks.

Q Were you also garrison physician?

A Yes, I was.

Q What were the duties of the garrison physician?

A His job was to take medical care of the guards.

Q What did you have to do with the concentration camp in your capacity as garrison doctor?

A Nothing.

Q Were there other camp doctors?

A Yes.

Q How many.

A Two or three. It depended. It was different at different times.

Q Did you have considerable medical knowledge at that time?

A No.

Q You have heard Kogon's testimony here, who stated that you had no particular interest in the medical affairs of the camp. This is Page 1203 of the English transcript. Is that correct?

A That impression might arise because I was not able to concern myself intimately with the medical care of the prisoners but no one can deny that the medical care for the prisoners and their treatment by specialist doctors was to a considerable extent improved by me. It was a well known fact among the prisoners that at my time Buchenwald had the best hospital of all concentration camps. My main work, however, was that of assisting the prisoners in view of the conditions of the camp at that time. This demanded a great deal of administrative work which used up my time completely.

Q Kogen further asserted that you felt uncertain in the field of medicine and that you made no secret of this. This is page 1203 of the English transcript, is that so?

A I know enough about medicine to know what was missing and what was absolutely necessary for perfect treatment and care of the sick people in the camp to be possible. And that I accomplished. And that was the main thing after all. There would have had to have been the goal of an experienced doctor as well.

Q If you had not really finished your medical training and had no specialist training, how could you fulfill your duties as first camp doctor at Buchenwald?

A When I began my activities as camp doctor in Buchenwald the medical care and treatment was carried out in part by prisoners who were not doctors. Some of my predecessors, all of whom were experienced doctors carried out major operations. I corrected these conditions immediately and put specialists in. For example, Dr. Horn as chief physician for the surgical department. Dr. Matuesek, M-a-t-u-e-s-e-k, I made chief physician for the internal department and Dr. Schallak, a Czech Jewish doctor, was director of the TB Department. I gave them absolute authority over the nurses. Theoretically they were subordinate to me. However, they never received from me orders to carry out their duties in the matter of medical care. They could work without any

interference from me exactly as if they were in a regular hospital. Later I got other specialists to take care of the patients, namely Poles and Frenchmen. The quality of these prisoner doctors was guarantee enough for me that all sick people without exception would be accorded the best possible medical care. I gave these prisoner doctors a perfectly free hand because I said to myself that they would be most concerned for the welfare of their fellow prisoners and that, of course, was the case. Therefore, so long as the SS doctors were doing official duties I made them subordinate to the prisoner doctors. That is to say, I made them assistants to Drs. Horn and Matussek and the other doctors. For these reasons I employed these prisoner doctors contrary to a specific order from Himmler and Grawitz. It was strictly forbidden to use drugs and medicines from the drug stores for prisoners. I did not obey this order. In 1942 and 43 I was the largest user of drugs from the drug stores in Weimar and because of my large consumption of drugs I twice had to explain my actions to the head office in Berlin. However, large amounts of medicine were necessary. To the extent that specialized treatment to prisoners in Buchenwald was not possible I sent sick patients to the Clinic at the University of Vienna. I think this was the most unique occurrence in the history of concentration camps.

Q You named Drs. Horn and Matussek. Is that Dr. Horn you mention identical with the witness here?

A Yes, that's the same man.

Q What was Dr. Matussek's citizenship?

A He was also a Czechoslovakian.

Q Dr. Kogon further stated that you had a triple function in Buchenwald. First, camp physician; secondly deputy of Ding-Schuler in block 46, and third as the deputy of the leading physician of the camp. This is on page 1209 of the English transcript.

A I was never Ding-Schuler's deputy in block 46. That can be seen from Ding's diary. It is also incorrect to designate me Dr. Lolling's

deputy. For three weeks when Dr. Lolling was absent I was working in his office. I was not the official deputy with executive powers nor did I issue directives or orders. I did, however, carry out the functions of camp doctor.

Q I turn now to the typhus charge. When was the typhus experimental station in Buchenwald set up?

A So far as I recall that was at the turn of the year 1941 to 1942.

Q What was the reason for setting up this experimental station precisely in Buchenwald?

A The reason was, I think, that Dr. Ding had been camp doctor in Buchenwald since 1938 and, therefore, knew the situation in that camp very precisely.

Q Who was director of the experimental station?

A Ding-Schuler.

Q Did you know him?

A Yes, of course.

Q Kogen characterizes Schuler as follows. This is page 1258 of the English Transcript. "He was ambitious, always watching out for number one. He wanted to be regarded as an important man by the public, particularly in the university. He sought every opportunity to further his personal interests and to have himself looked up to."

A That description of Kogen is certainly correct. Kogen knew Ding-Schuler much better than I did, moreover, and was more closely connected with him than I was. Ding would have even sacrificed his own family for his own personal advantage. Ding, because of this, made serious efforts to keep other people, including myself, from having any insight in his station for virus research.

Q Where were you Ding's deputy?

A I was his deputy in block 50.

Q Why was Ding interested in having you be his deputy in Block 50?

A First of all because I provided him with very material advantages through these illegal work shops have repeatedly been described here. Secondly, I was the only doctor whom the prisoners trusted and who, therefore, could collect the employees and assistants that were to work in block 50. Otherwise, he would have been unable to find them because it was a matter of common knowledge in the concentration camp that they often concealed their true profession because they never knew what they were going to be used for.

Q For what reasons did Dr. Ding not have you made his permanent deputy in block 46 as well.

A That was impossible because I had no specialized knowledge which would be the minimum requirement for any deputy. The nurses there had already acquired considerable knowledge so that they were superior to me in this field. I had neither time nor interest to concern myself with these problems. Therefore I could not have given the prisoners any orders.

Q Is it then true, as Dr. Kogan said, that the ambitious Dr. Ding had nothing to fear in the way of competition from Dr. Hoven?

A Certainly that is true, as Kogan says correctly only the most he had to fear was competitors, but the minimum requirements for a competitor is that he has specialized medical training in hygiene, so he didn't have to fear me as a competitor.

Q I shall now put to you Document NO-571, in Document Book XII, page 15. Here there is a notation to the effect that on 16th August 1943, Dr. Ding moved to Buchenwald; is that correct? This is on page 15.

A Dr. Ding's family moved at this time to Weimar. However, at the time the typhus experiments began he had his own room in the officer's barracks in Buchenwald.

Q What do you know about Ding's activities in the department for typhus and virus research in Buchenwald?

A I was never present during any experiments, but it was generally known that typhus experiments were being carried out on prisoners.

Q What was your activity in Block 46?

A At Block 46 I had no medical or research activities or duties at all.

Q Were you Dr. Ding's deputy for Block 46?

A No, I did not represent Dr. Ding in Block 46. Once for a short time I was his deputy in Block 44 and 49, but at that time there were no experiments being carried out.

Q Where were you his deputy?

A Block 50.

Q What was being done in Block 50?

A Typhus serum was being manufactured there.

Q Were any experiments carried out in Block 50?

A I know of none. During this time I concerned myself primarily with collecting the doctors, the scientific personnel and employees for

Block 50. This was done at a conference with the illegal camp management, above all with the leaders of the foreign resistance groups, the members of which were at this time in particular danger in the camp.

Q When you say the camp management, you mean the illegal camp management. How did you become to be Ding's deputy in Block 50?

A On the request of the illegal camp management, and the foreign political prisoners I was interested in becoming Ding's deputy in Block 50, because Block 50 offered a good possibility for helping many prisoners because their work would be regarded by the SS as so important that they would be classified as essential.

Q I shall now put Kirchheimer's testimony to you; it is on page 1324 of the English transcript. Kirchheimer said: Ding's deputy was Hoven. What do you have to say about that?

A It was known that I had accommodated a large number of prisoners who were in danger in Block 46. Also, months before Block 50 was opened, I was looking around for the prisoners who were to work in Block 50. When Kirchheimer says I was Ding's deputy, he certainly must be referring to Block 50, that is as deputy in Block 50. The only reason I or any of the prisoners had anything to do with Block 46 was to use these two blocks -- 46 and 50 -- as asylums. I did not have to tell any prisoner at this time that I knew nothing about typhus, and that I had nothing to do with the experiments. Only today I have to make these statements. Every one in the camp knew that, and that I accommodated prisoners in danger in Block 46 and 50, and that fact was known in interested circles at that time; and today I don't see it could have been any different.

Q Were experiments carried out during Ding's absence?

A I never carried any experiments out during Ding's absence.

Q Did you ever concern yourself, as a doctor, with typhus?

A No. It was in this trial that I ever heard any more precise information about typhus. Before the trial I had never concerned myself with typhus at all.

Q In your opinion, what knowledge is necessary for a person to be able to carry out typhus experiments?

A Well, at least specialized training in typhus and hygiene.

Q Do you have such training?

A No.

Q Did you send any reports to any offices on typhus experiments?

A No.

Q On page 1202 of the English transcript Dr. Kogan has stated that Dr. Ding did not begin -- could not begin any series of experiments in Block 46 without a formal order from a higher office. Did you ever receive such orders?

A No.

Q Did you know the defendant Genzken?

A No, never saw him before this proceedings.

Q Who appointed you Ding's deputy in Block 50?

A It was on orders of Grawitz, in agreement with Dr. Lolling, that I became his deputy in Block 50.

Q Were you specifically designated as Ding's deputy for Block 50?

A I was never appointed for anything except Block 50?

Q I shall now put to you Document NO-257, Prosecution Exhibit 283, page 11, in Document Book XII. This is Ding's affidavit. In this affidavit, Ding said the following: My presence in Buchenwald lasted always only a few days while the time of the experiments and the length of the typhus epidemic lasted about ten weeks. Is that correct?

A It is incorrect that Ding was present only for a few days at a time in Buchenwald; on the contrary, he was about absent for a very few days when he went on official trips. He was, at any rate, in Buchenwald as long as the experiments went on. Moreover, he never instructed me or any other doctors to have anything to do with these experiments.

Q Ding also said: Dr. Hoven had the orders, also had the duty of making those prisoners who were selected by the RSHA available for the prophylactic vaccination preceding the experiments.

A No, those statements of Ding's are not correct, because neither the chief of the concentration camp or the WVHA could have issued orders of that sort at that time. As I have already said, I only interceded on requests from the foreign political prisoners in order to prevent such prisoners being used for such experiments.

Q Is it true, as Ding said, that for the yellow fever experiments that two to three hundred volunteers stood in readiness?

A I know that for Ding's experiments volunteers did apply, but just what experiments of Ding's they were, I do not know.

Q In this affidavit Ding further says: "In the year 1942 he had to work a lot by himself since I contracted typhus, and after that was sent to a rest home. Right after that I had a detail to the Pasteur Institution in Paris. During this time the sick reports carried the signature of Hoven or Plaza". This is on page 12.

A From the diary it can be seen that during Ding's sickness with typhus there were no typhus experiments carried out at all. The same is true for the time when he was detailed to the Pasteur Institute in Paris. From this it can be seen there was no opportunity for any sort of independent work, entirely aside from the fact that, for the reasons already mentioned, I was in no position to work independently.

Q. Which of the defendants did you know before the began?

A. Professor Krugowsky I met six or seven days before the Gestapo arrested me in Weimar. Ding had invited my wife and myself to his home in Weimar. Krugowsky and Ding were present. There was no discussion of typhus at that time. The invitation lasted for, roughly, half an hour. That was the first time I saw Krugowsky and spoke with him. With the other twenty-one defendants I had neither officially or privately anything to do. I saw them for the first time in the dock here.

Q. Did you have any connection with firms whose vaccines were tested in Buchenwald?

A. No.

Q. Did you maintain any connection with the institute in Cracow?

A. No.

Q. I shall put to you Document 1305, Exhibit 469. This is a letter of 5 January 1943 from the Behring Works stating that yellow fever vaccine will be sent. In this letter it says, and I quote verbatim: "We ask for information whether we should send this shipment to Hoven in Buchenwald to the old address." Does this letter not contradict your statement that you had no connection with firms?

A. Ding never gave in his letters the address of the persons sending the letter as the experimental station but he gave the "Camp of Buchenwald" simply. Any letters---

THE PRESIDENT: What is the document book and page where this can be found?

DR. GAMLIK: That document was put in by prosecution during the examination of the defendant Krugowsky. Consequently, it is in no document book. It was put in while Krugowsky was being cross-examined - Document 1305, Exhibit 469.

THE PRESIDENT: I understand.

A. Consequently, all letters or packages from this firm were sent to the address of the firm which Ding had put on as the doctor's address and as soon as their contents would be ascertained they were sent to

Block 46. You can see very clearly from this letter that Ding is being asked what address the package should be sent to. In other words, he will get in touch with the person who is really going to receive the package, and that is what the firm is doing, asking him for an address, nothing more, to which the packages or letters or whatever it is should be sent. Oral or written instructions from Ding must have previously been sent to this firm which apparently were not quite clear so the firm is again asking for clear instructions as to how the stuff is to be addressed.

Q. In this connection, Mr. President, from Document Book Hoven No. 1 I put in as Exhibit HQ-1 Document No. 1, which is an affidavit by Arthur Dietzsch of 3 April 1947, pages 1 to 4 in the document book.

THE PRESIDENT: The Tribunal has not yet been furnished with these document books. Are they on the secretary's desk?

DR. GAMLIK: They have been ready for about two weeks, Your Honor. I am sure the Secretary General has copies of them.

THE PRESIDENT: We see the Secretary has gone to investigate the matter. I think the book will be here eventually. Proceed.

DR. GAMLIK: This document is on pages 1 to 4 of the English document book. Number 12 of this affidavit reads:

"I show you Document NO 1305. Why was the yellow fever infection serum sent to Dr. Hoven?

"This was done for two reasons:

"1. Block 46 had no mail communication at all. All parcels for Block 46 went by way of the camp physician until the setting up of Block 50 in 1943.

"2. It was desired that the outside world should not know that an experimental station existed in Buchenwald camp."

Then the affiant describes exactly what the policy was in the camp.

BY DR. GAMLIK:

Q. Were you at the third military medical conference?

A. No.

Q. Did Dr. Ding tell you about his encounter with Dr. Rose at this

third military medical conference?

A. No, I heard about this conference the first time here in the courtroom.

Q. Did you give Ding any of the data he needed for reading his paper?

A. No.

Q. Did you ever receive any orders from the defendant Mrugowsky?

A. I cannot remember that I ever did.

Q. I shall again put Ding's diary to you again, Document 265, Exhibit 287, also Document NO 571, Exhibit 285. On 27 August 1943 Ding visited the Zeiss firm in Jena, the Land Industrial Office, and the university clinic. This is page 18 of the English document book. It sets forth, according to the diary, on 27 August 1943, 70 experimental subjects were inoculated. This is on page 47 of the English document book. Did you carry out these experiments?

A. No, I never carried out any experiments.

Q. Who did?

A. I don't know.

Q. Wasn't it your job to take charge of these experiments because Ding was absent on that day?

A. Nobody, not even Dr. Ding, ever commissioned me to carry out any experiments in Block 46.

Q. You don't know what the situation at Buchenwald was?

A. On 27 August 1943 Ding could have done the experiments and then later in the same day he could have gone to Jena. It was easy to reach Jena from Buchenwald in 45 minutes. Moreover, you have to take into consideration the position that Dietzsch occupied in Block 46. Balachowsky has described it correctly. At Block 46 Dietzsch worked entirely independently.

Q. I now put Balachowsky's testimony to you. This is Document NO 484, Exhibit 291, page 61 of Document Book 12, Number 9. Balachowsky said in this affidavit: "If the scientific direction of Block 46 was in

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charge of SS-Sturmabannfuehrer von Schuler-Ding, all the practical execution of the experiments was entrusted to the Kapo of Block 46, the German political internee Arthur Dietzsch, residing at present at Detmold in the British zone."

Is that testimony correct?

A It can clearly be seen from this that I had nothing to do with the experiments in Block 46. Balachowsky describes the situation in Block 46 in such detail that if I had played a part there, he would certainly have not forgotten me, but he didn't mention me.

DR. NELTE (Counsel for the Defendant Handloser): I ask that it be made clear from what time on Balachowsky was in the camp so that it will be known from what time on he knows what the situation was in the camp. This is of some importance in the Rose case, and the Handloser case.
BY DR. GAWLIK:

Q Please continue, witness.

A It can be seen particularly from what he says here that the Kape Arthur Dietzsch was the man who is running things. So that it wasn't at all necessary when Ding-Schuler was absent for a camp doctor to become active.

Q Did you ever take part in the actual carrying out of the experiments?

A No.

THE PRESIDENT: Counsel, does the document to which you refer contain the information concerning which Dr. Nelte spoke a moment ago? I didn't gather from what he said whether that information was in the same document or not.

MR. HARDY: Can't Dr. Nelte bring out this information in the course of his examination of the defendant?

THE PRESIDENT: Yes, but while the document is being used, those dates might well be put in the record. It might save time later on. Have you those dates, counsel, contained in this document? Do you know, Dr. Nelte, where those dates are in the document?

DR. GAWLIK: It is on page 59 in the English copy. "Deported on 16 January 1944 to Buchenwald, sent on 10 February to the Dora tunnel. Brought back to Buchenwald on 1 May 1944 in order work in Block 50...."

BY DR. GAWLIK:

Q Dr. Hoven, do you think that Balachowsky is in a position to make statements about the situation at Buchenwald before that time in view of conversations that he may have had with other prisoners?

A I don't know Balachowsky. Let me take a look first. After I was released by the Gestapo in 1945, I visited my previous prisoners in the camp, and it does seem to me I can remember the name Balachowsky. It can be that he was introduced to me, but I can't say for sure. At any rate, he was a collaborator of Dr. Ding-Schuler. There was a Dr. van der Lingen, if I remember, and then Henry Pieck, then Jan Rupert of the Dutch Resistance Movement; and he must have been a friend of one of these. Consequently, he really should know enough to be able to make statements.

Q You know the situation in the camp Buchenwald, and then you can express an opinion on this: If someone gets to Block 50 only in 1944 and there associates with prisoners in Block 46, can he make statements about the time that preceded?

A Yes, he certainly can because, as I said, he is a doctor from the Pasteur Institute in Paris and he had touch with the main resistance leaders in the camp, and this was the best informed circle in the camp. Roberre Pieck and van der Lingen, and so on, all belonged to the resistance movement; and they had more information about the things in general than anybody else in the camp.

Q Thank you very much. Did you ever do any injecting or infecting in Block 46?

A I wish to use very precise terminology here. In Block 46 I never had a hypodermic needle or an oculation lancet in my hand.

Q You heard the testimony of the witness Kirchheimer that you never made an injection? That is page 1341 of the English transcript.

A That is the prosecution witness?

Q Yes, it is.

A What he says is true.

Q He also stated that you never had a vaccinating lancet in your hand —

MR. HARDY: Did that translation come through clearly in connection with the testimony of Kirchheimer? Would he repeat his answer? As I understand it, he accepts the testimony of Kirschheimer as true, is that correct?

A Kirschheimer said, did he not, that I never had a vaccinating lancet in my hand? That is correct.

BY MR. GAWLIK:

Q If you had, Kirchheimer must have been able to see it, mustn't he?

A If he hadn't seen it himself, he certainly would have found out about it.

Q Why, what are the reasons why he must have found out about it?

A The nurses discussed everything that went on in Block 46 among themselves; and if I had had a hypodermic needle or a vaccinating lancet in my hand, Kirschheimer would have found out about it on the same day.

DR. GAWLIK: Herbert Buhlick has made an affidavit which I will put in now, 26 April 1947. Document Hoven, No. 3, Exhibit Number 2, pages 14 and 15 of the Hoven Document Book. This affidavit of Buhlick says, first of all, and I quote: "Following the experiment with lice, I, with nine other prisoners as mediums, had a 2 cc intravenous injection of typhus without vaccination." On page 40 of the document Book 12, you will find a document that has something to do with this testimony. At the end of 1942 Buhlick was in Block 46 where he was working until the end of '44. He says, "I was in Block 46 the whole time and even slept there. I always visited the other sick wards too where I was not employed as a nurse. Besides I came into contact daily with the nurses of these other wards; on these occasions we talked about

what went on there. I do not know Dr. Hoven at all. I only know a Dr. Ding, who was chief of Block 46. I saw that all the injections were given by Kapo Artur Dietzsch whom we called the 'old one'. I also heard from the other nurses in Block 46 that all the injections were given by Kapo Artur Dietzsch. I know that Dr. Hoven was working in the camp hospital. But in the course of my activities in Block 46 I have never heard that Dr. Hoven gave any kind of injection. I would certainly have been told by the other nurses if Dr. Hoven had given typhus injections to experimental persons in one of the sick wards where I was not working as a handyman. Such an event would have been the topic of the day amongst the nurses. Also I could not have failed to notice if Dr. Hoven had visited the sick wards. In virtue of my observations while working in Block 46, I must say that Kapo Dietzsch worked quite independently in the absence of Dr. Ding. He gave all the orders and also carried out the experiments."

THE PRESIDENT: Counsel, due to the fact I did not have the Hoven Document Book when you offered your first exhibit, will you please tell me what document was offered as your first exhibit so I might note it on this?

DR. GAWLIK: Exhibit No. 1 was Artur Dietzsch's affidavit of 3 April 1947, Document No. 1, page No. 1 to 4.

THE PRESIDENT: Now is the time for the afternoon recess. I wish to ask Dr. Steinbauer, counsel for defendant Beiglboeck, and the prosecuting attorney in connection with this exhibit which was marked Exhibit 23 just before the noon recess, I am not clear and I don't know if the record is clear whether that exhibit was actually offered in evidence.

MR. HARDY: Your Honor, it bears Exhibit Number 23 which apparently has slipped my view because I didn't know that it had ever been offered as an exhibit. That is the weight chart, is it, that was drawn up by the defendant Beiglboeck himself, and I objected to it, and it is my understanding that Dr. Steinbauer is withdrawing it from evidence.

DR. STEINBAUER: Yes, that is so.

THE PRESIDENT: Dr. Steinbauer, is that correct?

DR. STEINBAUER: Mr. President, I withdrew the document because I wished to put in another list which contains not only the initial and concluding weights, but includes also the weights in between so that from these charts it will be possible to follow exactly the course that each case took. Also, the Doctor will indicate in these tables when any case drank water.

THE PRESIDENT: That is sufficient explanation for my understanding, but I was not sure that, as the recording system had ceased to work at that time, I wasn't sure that the record was clear, so the offer was withdrawn for this exhibit.

The Tribunal will now be in recess.

(Recess was taken.)

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: Proceed, counsel.

BY DR. GAWLIK:

Q I offered the affidavit of Buhlick and I should like to call the attention of the Tribunal in this connection to the affidavit of Arthur Dietzsch, which I have already submitted in my document book, on page 1, especially No. 1, where Dietzsch said: "In practice, however, he (Dr. Hoven) did not concern himself about the experimental station in Block 46. In practice Dr. Hoven did not have any activity in Block 46." I should also like to call the attention of the Tribunal to No. 2, showing that from the beginning of January 1942 until 5 days prior to the liberation by the American Army, April 1945, Dietzsch worked in Block 46 during the entire period when experiments were being carried out in Block 46. Dietzsch is a person who has the necessary knowledge to answer this question.

At what intervals were the experiments carried out in Block 46?

A Is it true that 3 to 5 persons were infected with typhus monthly, in order to have this virus living in the blood?

A That is possible. I never heard anything about it and I never took any interest in it. I had so much to do in the hospital that it took up all my time.

Q Who performed these injections if Dr. Ding was absent from Buchenwald?

A I do not know. I was not there.

Q. I shall now show you Document NO-1063, Exhibit 328 of the prosecution. This is the file of the Office for War Crimes in Amsterdam. It is not in any document book. It was submitted subsequently by the prosecution. I should like to show you page 14 showing that a certain van Levwarden testified that you injected typhus serum into him. What do you have to say about that?

A. It is very difficult to say anything since I never infected anyone with typhus. I never injected typhus serum according to Levwarden. This must be an experiment of 120 people. I gather that and my assistant, Dr. Platzer, infected all of these people. But I never heard of Dr. Platzer having anything to do in Block 46. Finally he says nobody died of those experiments. If what Levwarden says were true, this experiment would at least be mentioned in the diary and it would certainly say that I carried out this experiment. An experiment on 120 persons was a big experiment even for the conditions under which Dr. Ding worked. I assume that Levwarden knows me but not from the infection which I allegedly performed. It must be a matter of confusion. That's the only explanation I can think of. It is especially tragic for me that it is a Dutchman that accuses me of a deed that I did not do. Tragic because in the spring of 1942 the sport teacher Jan Robert in Buchenwald and I reached an agreement that the Dutch confidential agents were to tell me whenever a Dutch person was in any special danger or was to be sent on the Nacht und Nebel transport, so that I could help him. Jan Robert was head of a Catholic movement and wanted to come here as a witness in my trial but he had a fatal accident, as the witness Pieck has already testified. But it seems odd to me that Levwarden according to his own testimony was the only Dutchman who participated in this alleged experiment. According to his own testimony for six weeks he received excellent food before he was infected. That means that the Dutch confidential agents had plenty of time to inform me about this case. Even if I had nothing more to do with the selection of the experimental subjects, these confidential agents know very well that

everything was done by the illegal camp administration and myself to prevent foreigners being used in these experiments. It agrees with the fact that Levwarden says at Christmas 1942 we came to the Gustlof Works. That was one of the drives which together with the illegal camp administrator Jan Robert and Henry Pieck undertook to save the Dutchmen from the Nacht und Nebel transports to Natzweiler. This is a true fact that Dutchmen were quartered in blocks 46 and 50 and were considered essential. It was intended that all the Dutch were put on these Nacht und Nebel transports by the Gestapo and Levwarden was included in this reserve. On the last page a Dutchman by the name of Henry van Dalen says that he worked in Block 46 for several years as a laboratory assistant. He would surely have mentioned me and reported on my activity if I had had anything to do with the experiments in Block 46 but he does not even mention my name. In conclusion I can only say that Levwarden must be mistaken. I don't want to say that he does this intentionally but I assume that the experimental subjects in Block 46 were in such a condition that confusing the persons is quite possible.

Q. Now, I put to you the testimony of Dr. Kogon on page 1161 of the English transcript. Dr. Kogon testified that you were Ding's deputy for the experimental station 46. What do you have to say to that?

A. Kogon cannot testify to that from his own knowledge. Only in the spring or summer of 1943 he became Dr. Ding's secretary but I assume that Kogon deduced from the fact that I visited the illegal workshops in Block 46 frequently that I worked as a doctor in Block 46. On the other hand, as he himself stated, he went into the typhus problem thoroughly so that he must know that I lack all the most fundamental prerequisites to act as deputy in Block 46. But my real connections with Block 46 make it possible to make this mistake.

DR. GAMLIK: Mr. President, in this connection I should like to call the attention of the Tribunal to the affidavit of Arthur Dietzsch once more, page 2 of the Heven Document Book. No. 9 and 10: "Did Dr. Heven frequently visit Block 46? Yes. What did Dr. Heven do during his

visits to Block 46? Dr. Hoven only visited the shoemaker, the tailor, and the furrier shops which he had set up there illegally."

BY DR. GAWLIK:

Q. Did you ever give any orders to Dietzsch to carry out experiments?

A. No, Dietzsch was directly under Dr. Ding and besides he certainly knew more about typhus than I did.

Q. Did you have any opportunity to prevent the execution of the experiments?

A. No, I believe it has become known in this room that it was not possible to fail to carry out a Himmler order. Himmler had ordered these experiments. One could only try to sabotage them and I did so in the question of destroying the typhus lice.

Q. The prosecution has submitted that you were Ding's subordinate, page 1097 of the English transcript.

A. I was never Ding's subordinate. No experimental series were started during Ding's absence from Buchenwald and he did not need any deputy to take care of them. I have already given in detail the other reasons for this statement of mine. Dietzsch and the other nurses worked independently when Dr. Ding went away. When he left, he gave Dietzsch all the necessary instructions.

Q. Could you give any orders to Ding?

A. Of course not.

Q. What do you know about the number of experimental subjects?

A. I can say nothing about that. After my arrest the experiments continued for over a year and a half. And I did not take any direct interest in them.

Q. What can you tell us about the number of experimental subjects who died from typhus experiments?

A. I can give no exact information on that.

Q. According to page 1182 of the English transcript Kogon said that the total number of persons who died in Buchenwald from typhus

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experiments, eliminating passage persons, was 140 to 160.

A. I can say nothing about the number of dead from these experiments. I do not know. That figure might be too high or too low.

Q. Were there experiments in Buchenwald with typhus infected lice?

A. Yes.

Q. How many shipments of typhus infected lice arrived in Buchenwald?

A. Two.

Q. How many experiments with typhus infected lice took place in Buchenwald?

A. One.

Q. What happened to the first shipment of lice?

A. At my instigation Kapo Dietzsch and I burned it.

Q. Please describe to the Tribunal how the first shipment of lice was destroyed?

A. The prisoners informed me - it was a nurse - that a shipment had arrived with infected typhus lice and they asked me to see to it that this shipment was destroyed. The nurses and doctors were afraid of an epidemic and they asked me to try to prevent the experiments.

Ding was away at the time. I think he was in Weimar. I went to Block 46. I looked at the cages. There were fifty cages with 600 lice each, if I remember correctly. I know that it was a cold time of year. It must have been the end of 1942. The stove was heated in the anteroom of Block 46. I saw that the cages were fastened with wax and it occurred to me to say that they were not tight. And Dietzsch and I threw them into the stove and made a report on the basis of my position as camp physician I could not take the responsibility of an epidemic breaking out. I believe later I had a dispute with Ding about it. I can't remember exactly what he said. He said I should answer for what I did and send this report about the destruction of the lice to the office which had sent them.

Q: For what reason was the second shipment of lice not used?

A: The lice were brought by an officer in the Wehrmacht uniform; they came from an institute in Lemberg; and he had orders to attend the experiment.

Q: Please describe to the Tribunal how prisoners were infected by the lice in the second shipment?

A: In the beginning I was not present; when I arrived the cages were fastened to the prisoners' thighs.

Q: Was Dr. Ding present at the experiment?

A: Whether he was in the room at the beginning, I do not know. I heard that he was somewhere in the building.

Q: For what reason were you present at the experiment?

A: I had learned from the illegal camp administration that a political prisoner named Bach, B-a-c-h, was to be used as an experimental subject in this experiment. For this reason I went to Block 46 to prevent his being used as an experimental subject; and in order, if possible, to stop the experiment before it was finished; and, finally, in order to carry out a plan which we had arranged -- to tell him there was a car to take him to Weimar, and when he was gone to get an opportunity to destroy the lice.

Q: I should like to call the attention of the Tribunal in this connection to the Dietzsch affidavit, No. 8, page 2. There Dietzsch describes the destruction of the lice shipment. He says: "the first shipment of lice was destroyed by Dr. Hoven and myself in the presence of a number of male nurses whose names I no longer remember. Dr. Hoven and I agreed to prevent the inoculation with typhus infected lice because we disliked such experiments." Then, Dietzsch describes the destruction of the second shipment of lice, especially for what reason it was not possible to destroy these lice immediately. Did any prisoners die because of these lice experiments?

A: No.

Q: Did any fall ill?

A: Not as far as I know.

Q: Please look at Document Book XII, of the Prosecution, page 41 of the English, Document NO-265, Exhibit 287, the Ding Diary. It says that -- infections on the 3rd of December, 1942 five persons developed an atypical disease. What does an atypical disease mean?

A: That shows that they did not contract typhus.

Q: Now, I come to the selection of the experiment subjects. Did you select all the experimental subjects for the typhus experiments?

A: No.

Q: On page 1178 of the English transcript, Dr. Kogan said that at times the camp physician was involved in the selection of the experimental subjects. Will you comment on this?

A: That was a very complicated matter. The experimental subjects were selected by the Gestapo, and by the camp administration, and the list was sent to Dr. Ding. One day an agent of the foreign prisoners came to me and reported that there were two or three I don't know exactly how many, foreign political prisoners among the experimental subjects. I immediately went to the SS office -- whether that was the commandant's office in the Gestapo Section, I don't remember exactly. At any rate, I talked to the SS member who had drawn up this list on behalf of his chief. I pointed out to him that I was responsible for the selection of the experimental subjects, which, of course, was not the case -- but which gave me the necessary authority in his eyes. I told him that these two or three foreigners -- and they were the ones that I was interested in -- were not suitable as experimental subjects, and I succeeded in having these two or three names taken off the list. The same thing happened thereafter once more. A representative of the foreign and German prisoner groups came to me with the request that I should prevent somehow -- once and for all -- foreign political prisoners

from being used for these experiments. There was always danger that if I happened to be away there would be no one in the camp to get these political prisoners off the list. Therefore, we arranged that these lists were first sent to the hospital, and from the current card index which we had there in the hospital, which gave all the previous convictions of all prisoners, the German and foreign prisoners selected the worst traitors and stool pigeons. Their names were known to the prisoners, but we wanted to make sure by means of the card index who they were to get an exact picture of it. This list was sent to the head of the protective custody camp who took over prisoners whom he did not approve of. That was supposed to be the final decision; but we were forced again to strike off the names put on the list by the head of the protective custody camp if they were political prisoners, German or foreign. It was a very difficult matter. Finally, the list came to Block 46, and I can very well imagine that there was the rumor prevalent in the camp, that I was responsible for selecting the prisoners.

Q: Witness, the witness Roenhold, according to page 1633 of the English transcript, testified that selection of experimental persons was done on the basis of the card index in the office of the hospital. What do you have to say about that?

A: I have just told you how it was done. I mentioned the card index in the prisoners hospital. That is the same card index Roenhold was referring to.

Q: Now, who selected these people -- these traitors or stool pigeons who were exchanged for valuable political prisoners. You personally, or did you let the prisoners do that?

A: I will be very precise on this point. I never selected even a single experimental person or a prisoner for an experiment -- never. The representatives of the German and foreign prisoners only reviewed the names of the prisoners selected. The purpose was to prevent the SS or

the Gestapo from putting German and foreign political prisoners in these experiments. Then, when the list had been reviewed by the prisoners, I signed it. Neither the prisoners nor I actually had anything to do with the selection of the experimental subjects, because the fact that experimental subjects were selected could not be changed either by the prisoners or by myself, but we could prevent the SS or the Gestapo putting unpopular political prisoners whom they did not like in such experiments, not from the medical point of view, of course. And actually these measures prevented German and foreign political prisoners being taken for these experiments. This was my connection and that of the German and foreign political prisoners with the selection of experimental subjects.

Q: Did any of your superiors, especially Grawitz or Lolling, ever give you the assignment of selecting these prisoners for experiments?

A: No, neither of these two persons gave me such an order; neither Grawitz nor Lolling, and I don't believe that they had anything to do with the selection of experimental subjects. It was exclusively up to the Gestapo or the camp administration.

Q: Did some experimental subjects volunteer for the experiments?

A: As far as I know, there were volunteers for some experiments.

Q: Did the experimental subjects get any special privileges or any advantages?

A: As far as I know they did have some advantages. They had good and ample food, which is always a special inducement; and then they got out of hard work details, and so forth.

Q: Dr. Kogen on page 1167 of the English transcript testified that the experimental subjects selected from Block 46 included not only Germans but Poles, Russians and Frenchmen in the last year. What do you have to say about this?

A: Of course, Dr. Kogen's statement is true. That was the reason why the prisoners asked me to see to it to take some part in the selection. While I was active I cannot imagine foreign prisoners being used for experiments. The foreign and German political prisoners were in charge of reviewing the lists of experimental subjects just so that no political prisoners would be taken. Kogen says that in the last year Russians, Poles and Frenchmen were used for experiments. I can't say whether that is true or not. At that time I was under arrest by the Gestapo.

Q: And I tell you that Kogen testified that there were prisoners of war among the experimental subjects. This is page 1167 of the English transcript. What do you have to say about that?

A: I believe that I have already explained that, where I interfered the German and foreign prisoners reviewed the lists of experimental subjects; there could not have been any prisoners of war on the list, because they were considered political prisoners; and it was our purpose, as I have said repeatedly, to prevent German and foreign political prisoners being put on the lists.

Q: Did the illegal camp committee select political prisoners for the experiments?

A: No, because the committee consisted of political prisoners, Germans and foreigners.

Q: The witness Kogen on page 1162 of the English transcript testified that the selection of experimental subjects was not the same at different times. He described it as follows: in the first period, volunteers; later, subjects provided by the camp doctor or the camp administration; from the Fall of 1943 the Reich criminal police office

supplied criminals. Is that true?

A: I consider this subdivision that he makes correct, but that there were volunteers in the first period I cannot say. I know only that there actually were volunteers. How many and at what time I do not know. As to Point 2, Kogon heard that at the request of the German and foreign political prisoners I intervened and that the lists went back and forth. He didn't know the details, of course, since that was an agreement between the illegal camp administration and the representatives of the foreign prisoners and myself. Now, as to the selection of the experimental subjects in the fall of 1943, I can say nothing because I was under arrest by the Gestapo.

Q: On page 1633 of the English transcript Roehm testified that, predominantly, criminals and homosexuals were selected. Is this true?

A: It may be. I did not know that mainly homosexuals were taken since neither the illegal camp administration nor I would be able to prevent experimental subjects being taken. Our endeavor was to prevent German and foreign prisoners being taken for these experiments; when such persons were on the list the names were taken off the list and the names of the informers were put in their place.

Q: Did you select passage persons?

A: No, I never heard anything about passages at my time. I didn't know why such passages would be made. I learned that during this trial from the prosecution.

Q: Now, I should like to refer you to Document NO 257, Prosecution Exhibit 283. It is on page 11 in the German and English Document Book 12. This is a statement. Page 11 -- I beg your pardon -- that is page 10 in the English. Ding makes the following statement -- "page 11" of the English, third paragraph from the bottom: "Dr. Hoven had the order to get the prisoners (professional criminals sentenced to death) that had been released for the experiments from the Reich Security Office and the

chief of the concentration camps, ready for the vaccination or the infection after an examination of their physical fitness." Is this true?

A: There is not a word of truth in it. I hear it for the first time that professional criminals condemned to death were used for experiments during my time. Dr. Ding tries to indicate that the selection was made by me but I think even the prosecution witnesses have proved that this was not the case. Why and how I selected or had the persons selected has also been shown. Dr. Ding forgot to say that he, in the last analysis, had to decide who was used for these experiments because he was the one that carried them out; an order from the R.S.H.A. to the inspector of the concentration camps about the selection of the experimental subjects never reached me.

Q: How do you explain this incorrect statement by Dr. Ding-Schuler?

A: Persons condemned to death were not in the concentration camp Buchenwald, at least not at my time. It did happen that persons who were in concentration camps were condemned by SS and police courts or the execution was ordered by Himmler himself but these were exceptions and these persons were executed shortly after sentence was passed. There was no large number of persons condemned to death in the concentration camp Buchenwald. This alone shows that Ding's statement is not true. A large number of Poles -- I think 70 -- were to be hanged because of sexual relations with German women and girls but since this depended on the doctor, there was not a single execution actually carried out. These Poles didn't all come to Buchenwald at once but over a course of three quarters of a year. I should like to say that during my time not a single professional criminal condemned to death entered Block 46. This is true until the 12th of September 1943. For the rest I refer to the testimony of Dr. Kogan who described very correctly how and in what way the experimental subjects were selected. He mentioned the camp doctor in addition to the other officers which actually did select

the experimental subjects because Kogon no doubt heard for what reason I intervened in the selection of experimental subjects. During my time the political prisoners and I did everything possible to prevent German and foreign prisoners being used for experiments.

Q: I now come to the affidavit of the defendant, Dr. Hoven, in his document NO 429, prosecution Exhibit 281, on page 1 of Document Book 12.

I should like to call the special attention of the Tribunal to the decision on page 1079/80 of the English transcript in the session of the third of January 1947, the Tribunal made the following decision on this document during the session of 3 January 1947: "The affidavit would be accepted temporarily independent of later objection. The affidavit does not show whether the defendant Haven was answering any questions, if he was interrogated without having been warned, he can indicate that later on the witness stand; if he did not understand English and this affidavit was not translated, he may clarify this point also. But at this time the affidavit will be admitted provisionally without influence on the right of his defense counsel to object to it later; and if then the Tribunal believes that this affidavit is not to be admitted, then it will be stricken from the record." Mr. President, I don't know whether the transcript of the 3rd of January 1947 is in the hands of the Tribunal at the moment; therefore, I have brought it with me. Shall I hand it to the Tribunal?

THE PRESIDENT: That is the transcript that counsel has just read?

DR. GAWLIK: Yes.

THE PRESIDENT: That is sufficient.

BY DR. GAWLIK:

Q.- In what language was this affidavit given to you?

A.- In English. After I had given this affidavit, I was called again two or three days later. This time I was given the first part of the affidavit, that is, my life history; but not in English, in German. And it turned out that there were so many mistakes in the German text that the interrogator had to go through it again with me. Then he had it copied again, and I signed it for the second time.

Q.- In order to make it quite clear, this life history was handed to you in German after you had signed the whole affidavit in English?

A.- That is true. The affidavit included my life history in English and this part of the affidavit was given to me three days later in Ger-

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man to sign.

MR. HARDY: Your Honors, to clarify for the record, I might call to the attention of the Tribunal the affidavit he is referring to is the German language one contained in Document Book No. 1, which is the document book which lists the position of the defendants. Defendant Hoven executed two affidavits. One was a small one which is document Book No. 1 and the affidavit that is at issue here was executed by the Defendant Hoven for me. As a matter of fact, I wrote it, then the defendant Hoven corrected it in my presence.

BY DR. GAWLIK:

Q.- Would you please comment on this, witness?

A.- What Mr. Hardy says is true, but after I had gone through the affidavit with Mr. Hardy in English and it was ready to me in English, after that, three days later, I was called again and part of the affidavit giving my life history was given to me in German with the explanation that there were mistakes in this part of the affidavit which the interrogator had noticed, and then the interrogator -- and it wasn't Mr. Hardy -- went through my life history copied again after I had made corrections-- and then I signed it again. That was after I had given the affidavit to Mr. Hardy.

Q.- And you only signed the life history the second time?

A.- Yes, in German.

Q.- Part of the affidavit which said nothing about the charges against you, only your life history?

A.- Yes, that is right.

THE PRESIDENT: The Tribunal would like to examine the original of this affidavit. The Tribunal would like to examine the original affidavit. Is it available here or in the office of the Secretary General? If it is not here, it can be produced Monday morning.

BY DR. GAWLIK:

A.- I speak English well enough to carry on a conversation. There

are many words that don't come to me, but in conversation I can avoid them. I am sure I did not understand the exact wording and the exact sense of the affidavit.

Q.- Did you study English in school?

A.- No.

Q.- When were you in the United States?

A.- 1921 to 24.

Q.- After that did you have an opportunity to refresh your knowledge of English?

A.- No.

Q.- From this entire affidavit as contained in Document Book 12, page 1, did you see a German translation before you signed it?

A.- No.

Q.- To make it quite clear, I am talking about this entire affidavit in Document Book 12. Was it translated to you orally before you signed it?

A.- No, with the exception of the life history, but that was a few days later, as I have already said.

Q.- To make it quite clear the life history was translated for you after you signed the whole affidavit?

A.- Yes, three days later.

Q.- Did you dictate this affidavit in Document Book 12?

A.- No.

Q.- Does the wording come from you?

A.- No.

Q.- Who drew up the affidavit?

A.- I don't know.

Q.- Were you present when it was set up?

A.- No.

Q.- On the basis of what material was it set up?

A.- I don't know.

Q.- Were you interrogated before hand?

A.- Yes.

Q.- Were notes taken at this interrogation?

A.- Yes.

Q.- Did you sign these notes which were taken down before hand?

A.- No.

Q.- Were these notes shown to you for your approval?

A.- No.

Q.- Did you have any knowledge of what was taken down?

A.- No.

Q.- Before the interrogation were you informed that you could refuse to testify if you might incriminate yourself?

A.- No.

Q.- Did you read the affidavit before you signed it?

A.- Yes, I read the English. I did not see any German text. I was given the English text. It was read to me and I read it myself.

Q.- Did you understand the general sense of the affidavit?

A.- There were many words that I did not understand, and they are important in such a document. I don't speak English well enough to understand the exact meaning of this statement. In general, of course, I know what it was about. I know ordinary conversational English. I do not know any special technical terms.

Q.- For what reasons did you sign the affidavit?

A.- I thought it was the form in which I said these things at the interrogation; and for that reason I only read it superficially. You must put yourself in my place at the time of the interrogation. I had been in Gestapo prisons for one year and in the concentration camp for half a year; and I don't have to explain in this room what that means. Then I was in American captivity. My nerves and my health had suffered considerably from being in the custody of the Gestapo. Then I was in

the PW camp at Kreuznach, Freibach, Freising, and August, 1945, I came to Dachau. September '46, I came to Nurnberg. I was in noway acquainted with American penal procedure, and I was not informed whether I was to be a witness or a defendant. I did not know that I could refuse to sign this affidavit and demand that it be translated into German. The interrogator did not inform me about all these things.

DR. GATLIK: Mr. President, with reference to the ruling of the Tribunal in the session of 3 January 1947, page 1079 and 1080 of the English transcript, I make application that the affidavit, Document NO-429 not be admitted and that it be stricken from the record. From the testimony of the witness it can be seen that he did not answer any questions. He was interrogated without being warned. Also he did not understand English well enough in order to get the meaning of the affidavit where every word is important, and the affidavit was not translated for him.

In regard to the final point, I refer especially to the work of Warden, Evidence in Criminal Cases, Volume 3, edition 1935, page 21-26 where it is expressly stated that it is absolutely essential to employ a translator if the person making the statement does not understand English.

EXAMINATION

BY JUDGE SEBING:

Q.- Witness, as I understand your testimony it is that the affidavit which appears in prosecution document book 12 at page 1, as prosecution document NO-429, prosecution exhibit 281 was taken in the English language, was then given to you in English, that you then read it over and signed it. Is my understanding of what you have said correct?

A.- Yes, Your Honor, it was read to me. It was read aloud and I read it myself, and as I already said, I can carry on a conversation in English. When I can't think of words I can circumscribe them. I understood the general meaning of the affidavit but not the exact meaning and not every word.

Q.- Do you have before you now a copy of the English version of that affidavit?

A.- I have the German text.

Q.- Will the page handed to the witness the English text? Are you able to read English, witness?

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A.- Yes, I think so.

Q.- Will you please --

A.- Pronunciation won't be quite right. I have been learning a little more English since this trial has been going on.

Q.- Well, you read English well enough to know, regardless of your pronunciation, when you come to an English word or phrase or sentence that you do not fully understand, don't you?

A.- Yes, your Honor. If something is read to me and I am just following, I understand the general sense and then I imagine that I understood, but afterwards I find out as in this case, that there are many words that I did not understand and sometimes the meaning was different from what I thought. For example, when I read books -- I have been reading some English books lately -- I understood the general sense and I knew what the story was about, but I didn't understand all the details.

Q.- Well, I am going to read to you the last paragraph of this document, your affidavit, and I want you to listen carefully and when I have finished with it I want you to talk into the microphone in German, giving you version of what you have understood this to mean, and I want you to get the English channel and I read it to you, not the German channel. Can that be arranged? Are you hearing now?

A.- I am hearing in English.

Q.- Yes. Then I shall read the last paragraph.

A.- I shall not read with you, sir?

Q.- Can you hear me?

A.- I can hear you.

Q.- Yes. Well now, listen to what I read.

A.- Yes sir.

Q.- Quote: "The above affidavit written in the English language, consisting of five pages, is true and correct to the best of my know-

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ledge and belief. This affidavit was given by me freely and voluntarily without promise of reward and I was subject to no duress or threat of any kind." Unquote. Now, do you understand what that means as I have read it to you?

A.- Shall I answer in German or in English?

Q.- You may answer in English if you care to.

A.- Since this trial there are many words I have heard now which I didn't know before. One word, sir, you started was I think "quoted", "I quote". And that's a word I have heard many times now in these sessions. I didn't know it before.

Q.- What other words are there in the quotation I have read you which you do not understand?

A.- "Subjected."

Q.- Will you repeat, please?

A.- "Subjected", I think you said.

Q.- Perhaps if you will turn to the English version at page 6, that last paragraph, and read that if you will, and then explain to us any words there you do not understand?

A.- It is the word "affidavit". I only knew it after the beginning of this trial. I didn't hear it before.

Q.- What other words?

A.- It seems to be very funny, but it's true, "voluntarily", I didn't know it before, but of course, I know it now as I heard it many times.

Q.- "Reward", (spelling) r-e-w-a-r-d. And as I told you before, "Subjected", and the word "threat", I didn't know. My opinion was it means a traitor or something like that.

Q.- Now, are there other words?

A.- No, that's all, sir.

Q.- In other words, you said that prior to the time you signed this affidavit you were not familiar with the word "affidavit"?

A.- Yes, that's right/

Q.- You were not familiar with the word "voluntarily"?

A.- That's right.

Q.- You were not familiar with the word "subjected"?

A.- Yes, that's right.

Q.- You were not familiar with the word "duress" (spelling)

d-u-r-e-s-s; is that correct?

A.- Duress -- I think it was "reward" (spelling) r-e-w-a-r-d.

Q.- Reward?

A.- Reward.

Q.- You did not know what the word "reward" meant?

A.- Yes, sir.

Q.- And then the final word that you did not understand was the word --

A.- "Threat" (spelling) t-h-r-e-a-t. But I know it now of course.

Q.- Threat, you did not know that word?

A.- "True"?

Q.- No, (spelling) t-h-r-e-a-t?

A.- "Threat", yes, that's right.

Q.- You did not know that word?

A.- No.

Q.- So then if we are to take those words out of the final paragraph in the first line then will appear this statement, which as I understand you say you understood at the time.

A.- Yes, sir.

Q.- Quote: "The above written in the English language, consisting of five pages is true and correct to the best of my knowledge and belief. This affidavit -- you said you did not understand "affidavit", so I will delete that, so it would read: "This was given by me freely and without promise." Now, isn't that the effect of you understanding of that final paragraph?

A I think the misunderstanding arises because I do know a little conversational English; as I have already said in the course of this trial I have frequently listened to the English translation and have learned a great deal in that way. And since I could carry on a conversation more or less by circumscribing the words I did not know, then I thought that what was read to me and what I followed was right but there were some words that I did not understand; but I thought that I understood the meaning and that it was more or less what I had testified. Besides, it went off rather fast and I had the impression that there were a great hurry for me to sign it and I did sign it.

Q Will you be prepared when the Tribunal convenes on Monday, to have gone over the English text of this document and its translation, and then advise the Tribunal from the witness stand just what portions of it you now say that you did not understand at that time?

A Your Honor, I shall be glad to do that. I should like to point out once more that at the time, I did not quite realize the meaning those various words because I did not know the purpose of this affidavit. I did not know that it was going to be used in an indictment against myself. There were individual matters which could have been clarified or explained and they distort the meaning without being explained. I found out quite definitely that part of the affidavit, concerning the selection of experimental subjects, was never said by me in this form, never. Since on the whole I understood the general form of this document and saw a few words that were right, I assumed that it was just what I said. I realize that if the person who wrote this affidavit was not present at the interrogation it would be very easy to distort the meaning.

Q Well suppose you prepare yourself to comply with the request of the Tribunal regarding such portions of the affidavit in the English language as you are prepared to say that you did not know at the time you signed the affidavit what you were signing and then, following that, be prepared to tell the Tribunal what portions of that affidavit you now say are true

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and what portions you say are untrue and do not reflect what you said at that time or do not reflect the truth.

A I shall try, Your Honor, to follow your instructions. It will take some time especially since in the meantime I have learned a good many words, especially words which appear repeatedly in this affidavit, but I shall try to reconstruct what I know at that time.

THE PRESIDENT: If there is nothing more to be said, the Tribunal will now take its recess.

Does counsel desire to make any other statement?

R. HARDY: Of course I anticipate the Tribunal will not rule out this affidavit before I have had the opportunity to cross examine the witness on the affidavit?

THE PRESIDENT: The Tribunal will certainly not rule before you have had an opportunity to cross-examine the witness.

The Tribunal will now be in recess until 9:30 o'clock Monday morning.

THE MARSHAL: The Tribunal will now be in recess until 9:30 o'clock Monday morning.

(The Tribunal adjourned until 23 June 1947, at 09:30 hours.)

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Court No. I, Case I

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 23 June, 1947. 0930-0945: Justice Beals, presiding,

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants are all present in Court?

THE MARSHAL: May it please Your Honors, all the defendants are present in the Court.

THE PRESIDENT: The Secretary General will not for the record the presence of all the defendants in Court.

The defendant Hoven is reminded he is still under oath.

Counsel may proceed:

DR. GAWLIK: Mr. President. May I make the examination about the affidavit, the words which the defendant did not understand or does the Tribunal want to ask him these questions?

THE PRESIDENT: Counsel, in what document book is this affidavit found? The Tribunal does not have that reference.

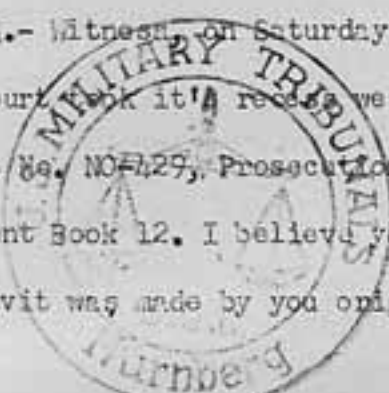
DR. GAWLIK: Document Book 12, Your Honor.

THE PRESIDENT: What page?

DR. GAWLIK: Page 1, the first document.

BY JUDGE SEBRING:

C.- Witness, on Saturday of last week just prior to the time that the Court took it's recess we had under consideration Prosecution Document No. 10429, Prosecution Exhibit 281, appearing in Prosecution Document Book 12. I believe your testimony was to the effect that this affidavit was made by you originally in the English language and signed



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by you and that at the time you signed it there were certain English words or phrases in the affidavit which were strange or unknown to you and that consequently you did not understand the full and clearly legal import of the paper you were signing. Is that the effect of your assertion to the Tribunal?

A.- Yes, exactly.

Q.- Do you have before you at the present time the English version of Document No. W-429?

A.- Yes, Your Honor.

Q.- Will you be good enough to refer to that document beginning with paragraph one thereof and tell the Tribunal what words, phrases, clauses or sentences are contained therein, the legal import and the textual import of which was not fully understood by you at the time you signed the affidavit?

A.- In paragraph I, the word "affidavit." In the first sentence the word "duly", in the second line, the word "concluded", in the next line --

Q.- Wait just a moment, please. I do not see the word "concluded", in this affidavit.

A.- In the seventh line, Your Honor. "In 1939 I concluded my medical studies."

Q.- Very well, you may proceed.

A.- In the next line the word "joined."

Q.- You mean in the sentence which reads: Quote - "In 1934, I had joined the Allgemeine SS."

A.- Three lines before that, but it is the same word: "Joined the Waffen SS as a physician."

Q.- Very well.

A.- The same word is in the last sentence of the first paragraph.

Q.- Very well.

A In the second paragraph "assigned" in the first sentence. In the third line "I was appointed", the word "appointed". In the fifth line "in charge". In the third paragraph.....

Q Very well.

A In the third line from the bottom on this page, paragraph three, "acquainted".

Q Very well.

A On page 2 "spotted fever". As far as I know today that is the wrong term. It should probably be "typhus". In the second line of paragraph 4 "effectiveness".

Q Is that in paragraph 4?

A Yes, the second line at the end of the line.

Q Very well.

A In the fifth line of paragraph 4 the word "supervision".

Q In other words, the words "the direct supervision"? That was not understood by you?

A That's right.

Q Very well.

A Then in the third line from the end of paragraph 4 there is a word that looks like "chain", c-h-a-i-n, "chain of command".

Q Very well.

A In paragraph 5, the third word in the first line "recollect". Paragraph 6 on page 3 the first expression "in as much as". I know the word "much". I know what "as" means but I don't know this whole expression "in as much as". And I don't know "constantly" either. I know "very friendly" in the second line of paragraph 6. I used the word "zweckfreundschaft" in German. The interrogator told me it meant the same thing.

Q I will ask the translators whether or not they agree that it means the same thing?

INTERPRETER: Your Honor, "zweckfreundschaft" would mean "friendship of expediency".

A In the second line of paragraph 6 the word "frequently". The last word in the third line from the end of paragraph six there is the word "in charge" which has already been mentioned. Paragraph 7, third line at the end, "spotted fever" again. In the 4th line "in order to contrast". In the 7th line "previous" - the third word. Paragraph 8, the last word in the first line "purposes".

Q In other words "for the purpose of"?

A Yes. Then in the 4th line of paragraph 8 "human beings". I had not heard of this expression before the trial. I thought the translation for "menschen" was people.

Q Did you understand what the word "human" or "humans" meant?

A Not "human beings".

Q Did you understand what the word "human" or "humans" meant?

A It says "human" here.

Q Did you understand what that meant?

A Yes, I understand that.

I know the word today, of course.

Q Did you know it then?

A I didn't know what "beings" meant, that "human beings" was the same thing as people.

Q But you did know what "humans", h-u-m-a-n-s, meant?

A Humano?

Q Very well.

A On page 3, the last word in the second line from the bottom "request". And, the last word on the page "referred". On page 4 the word "notified" in the second line. "Request" the first word in the 4th line I have already mentioned. In the same line "at random". I never heard that in my life. And the last word in that line "roster". In the 7th line "event". In the last line "requested" again. In the 9th line "substitutes" and the next word in that line that I didn't know was "provides". The 10th line "victims". In the 11th line "approval".

In the 12th line "check to ascertain". And the last word in the paragraph "requirements". Paragraph 9 on page 4, the last word in the heading "extermination". And the third word in the first sentence "aware". In the second line the word "extermination" occurs again. The first word in the third line "deficient". The same word occurs again in the 7th line. In the 10th line the word "extermination" again. In the 11th line at the beginning of the sentence "accordance". In the last line on this page the word "extermination" again.

Page 5, first sentence "exterminated". The first three words in the third line "issue falsified statements". Paragraph 10, the last word of the heading "means". In the 5th line the word "average" and the next word "hence". In the same line the word "envied". In the 7th line the word "traitors". In the 8th line the word "grapevine". In the 9th line the word "traitors". In the 10th and 11th lines the word "statements" is repeated. Paragraph 11 the third word "instance I supervise".

Q Now, just what is the word "instance" or the word "supervised"?

A Both.

Q In the 7th line, paragraph 11, "performed" .

On page 6, in the 5th line "supervision" and "means" in the 5th line.

Q And then, I believe you said, at the Saturday session, that in the final paragraph below Paragraph 12 you did not understand the words "affidavit" , "voluntarily" , "reward" and "threat".

A That is right.

Q Did you understand the word "duress" , D U R E S S ?

A I can't say today. It's possible that I connected it with the French word for hard which is "dure" .

Q Very well.

Now, let me ask you this. There are several words in this paper signed by you which you did not understand at the time you signed the paper. Can you say that you did not understand the import of the words from the general context of the paper?

A I am sure that I did not understand the full significance. It was read to me and I read it myself, perhaps a little superficially. I knew what it was about, but I did not understand the exact meaning of all the individual words. I believed at the time that I had understood the meaning but, because I could speak a little English and could carry on a little conversation, I may have over-estimated my understanding.

Q Very well.

And you say that you did not understand the words "spotted fever"?

A I had never heard it before.

Q So that, as a matter of fact, wherever the words "spotted fever" appear then the Tribunal is to understand that you did not understand its connotation, is that correct?

A I can not say for certain. I am sure I did not know the word itself, but it is possible that I did understand the context. I can not say for certain. I only know that I did not know the words,

but it might be that I did get the meaning of it because there's the word "fever" .

Q You understand then the general connotation of the word "fever"?

A Yes. As I know now, through the trial, this is the wrong expression in English. It should be typhus I have discovered.

Q Then with the words eliminated from this paper you signed, I am going to read into the record the paper or affidavit as it now is with the deletions which you say were not understood by you?

I believe, Mr. President, that in the Tribunal's final study of this document if it is in the record in this form it may be of some aid to the Tribunal.

THE PRESIDENT: You're right, sir.

JUDGE SEBRING:

"I, Waldemar Hoven, being sworn, depose and state:

"1. I was born in Freiburg in Breisgau on the 10th of February 1903. I attended high school but did not complete my education until many years later. Between the years 1919 and 1933 I visited Denmark, Sweden, United States, and France. In 1933 I returned to Freiburg and completed my high school course and then attended the Universities of Freiburg and Munich. In 1939 I -- medical studies and the Waffen-SS as a physician. The last rank I held in the Waffen-SS was Hauptsturmfuehrer. In 1944 I had -- the Allgemeine SS."

Incidentally, for the sake of the shorthand reports, wherever I make a pause will be the place where there is a deletion of a word.

Beginning with the second paragraph:

" 2. In October 1939 I was -- an assistant medical officer in the SS Hospital in the Buchenwald Concentration Camp and held that position until 1941 when I was -- the Medical Officer of the SS troops stationed in the camp. At the end of 1941 I was transferred to the camp hospital and became the Assistant Medical Officer therein. This hospital was for the inmates of the Buchenwald Concentra-

tion camp. In July 1942 I was elevated to the position of Chief Physician and thereby had the full responsibility for the inmate patients in the hospital. I held this position until September 1943 when I was arrested by the SS Police Court of Kassel and remained under arrest until 15th of March 1945.

" 3. Due to my various positions in the Buchenwald Concentration Camp during this period of nearly four years I became - with all phases of the medical activities therein and am hereby able to make the following statements: "

"FEVER AND VIRUS EXPERIMENTS"

"4. In the latter part of 1941 an experimental station was established in the Buchenwald Concentration Camp in order to determine the of various fever vaccines. This department was called the 'Fever Experimental Station' and was under Dr. Ding, alias Schuler. This experimental station was set up in Block 46 of the camp. The Hygiene Institute of the Waffen SS in Berlin, under the command of Dr. Joachim Krugowsky, received all the reports of these activities and Dr. Ding took orders from Krugowsky. In the early days, that is, between 1941 and the summer of 1943, Dr. Ding had many meetings in Berlin with Dr. Karl Genzken concerning his work at Buchenwald in connection with the fever experiments. Dr. Ding told me that Dr. Genzken had a special interest in these matters and that he sent him reports at various times. Dr. Ding also said that Dr. Karl Genzken was one of his superiors. From my association with Dr. Ding I understood that 'Fever Experimental Station' was as follows: Reichsarzt SS Grawitz, Genzken, Krugowsky, and Ding.

"5. I can that Dr. Genzken gave orders to Dr. Ding in January 1943 to enlarge the experimental station. At this time Block 50 was cleaned out and made into a station for the production of the various vaccines to be used in the experiments at Block 46. From this time on the experimental station was known as 'Department Fever and Virus Research of the Hygiene Institute of the Waffen SS'. Then in the summer of 1943 Dr. Genzken turned all his duties over to Dr. Krugowsky and from that time on Genzken no longer actively participated in these matters. I can recall meeting Dr. Krugowsky in the home of Dr. Ding on one of his visits to Buchenwald.

"6. I was associated with Dr. Ding at Buchenwald, we became 'friendship of expediency'. I discussed matters with Ding and visited his experimental station from time to time. As a matter of fact, Dr. Ding had to go to Berlin for discussions with

Dr. Krugowsky and others nearly three days out of every two weeks, and on such occasions I was the Fever Institute. However, when Ding went to Berlin, the experiments were discontinued until he returned.

"7. The experiments at Block 46 in the Buchenwald Concentration Camp were conducted as follows: One group of victims were first vaccinated with the fever vaccine and then infected with the fever virus. the effectiveness of the vaccine another group of inmates were merely infected with the fever virus without any vaccination. Between the autumn of 1942 and the summer of 1943 about 500 inmates of the Buchenwald Concentration Camp were used in these experiments. During my time about ten percent of the total number of the inmates used died as a result. I heard that a larger number of the victims died after my time; that is about twenty percent.

"8. The selection of inmates to be used for medical experiments in Block 46 by the 'Institute for Fever and Virus Research' was as follows: Whenever Dr. Ding needed for his work, was made to the office of the Camp Commandant and to me for action. Usually a man named Schober, an SS Hauptsturmführer, me to select the necessary number of prisoners for these purposes. In accordance with this I selected various inmates from the camp. They were placed on a list over my signature and returned to Schober, who often removed certain names from the list for political reasons. In the that particular prisoners were removed from the list, I was to select in order Dr. Ding with the desired number. After I returned the completed list to Schober, it was given to Dr. Ding. He made a final from a medical point of view, the physical condition of the selected inmates and to determine whether or not they met his

TRANSFER OF INMATES TO THE BERNBURG
EUTHANASIA STATION

"9. I became in 1941 that the so-called 'Euthanasia' program for the the mentally and physically was being carried out in Germany. At that time the camp commander, Koch, called all the important SS officials of the camp together and informed them that he had received a secret order from Himmler to the effect that all mentally and physically inmates of the camp should be killed. The camp commander stated that higher authorities from Berlin ordered that all the Jewish inmates of the Buchenwald Concentration Camp should be included in this program. In these orders 300 to 400 Jewish prisoners of different nationalities were sent to the 'Euthanasia Station' at Bernburg. A few days later I received a list of the names of those Jews who were at Bernburg from the camp commander and was ordered to of death. I obeyed this order. This particular action was executed under the code name '14 f 13'. I visited Bernburg on one occasion to arrange for the cremation of two inmates who died in the Wernigerode Branch () of the Buchenwald Concentration Camp.

THE KILLING OF INMATES BY PHENOL AND OTHER

"10. In the camp we had a great many prisoners who were jealous of the positions held by a certain few of the inmates, that is, some of the political prisoners held key positions and were able to get better living conditions. Hence, many of the prisoners these positions and made every effort to discredit the men who held the key positions. Such actions became known to the men in the key positions and then such were immediately killed. In each case I was later notified in order to make out the death of the prisoners killed. These did not indicate the actual cause of death, but were made out to indicate that

the prisoner died of natural causes.

"11. In some the killing of these unworthy inmates by injections of phenol at the request of the inmates. These killings took place in the camp hospital and I was assisted by several inmates. On one occasion Dr. Ding came to the hospital to witness such killings with phenol and said that I was not doing it correctly; therefore, he some of the injections himself. At that time three inmates were killed with phenol injections and they died within a minute.

"12. The total number of traitors killed was about 150, of whom 60 were killed by phenol injections, either by myself or under my in the camp hospital, and the rest were killed by various such as beatings, by the inmates.

"The above written in the English language, consisting of five (5) pages, is true and correct to the best of my knowledge and belief. This was given by me freely and , without promise of and I was to no or of any kind."

I believe that completes the affidavit as it is, Dr. Gawlik, with the words omitted that the witness said he did not understand or fully comprehend their import.

BY THE PRESIDENT:

Q. Witness, have you recently examined the original of your affidavit?

A. The original? No.

Q. Are you aware of the fact that in paragraph 4 after the words "Spotted Fever Experimental Station" in the document which you have there appear in parenthesis the words "Fleckfieber Versuchstation", with some other German words, including again "Fleckfieber and Virus Forschung"? Are you aware of the fact that those words appear in German after the English words "Spotted Fever Experimental Station"?

A. Since you remind me of it, Mr. President, I remember. I understood Judge Sebring to tell him what words I do not know and I had never heard the word "spotted fever" before.

A. Are you aware of the fact the words in German which I have endeavored to read appear in your original affidavit?

A. Yes.

Q. Then you understood perfectly well what the words "spotted fever" in English meant, because they were translated in German immediately following those words in English?

A. Judge Sebring asked me what it was. I did not know.

Q. I understand that.

A. I knew that this was about the typhus experimental station, yes.

Q. And when you signed this affidavit, you knew the German words translated "spotted fever experimental station" appeared in the affidavit which you signed?

A. As far as I can remember, I had read "spotted fever". I probably read the German "Fleckfieber and Virus Forschung", and I probably just ignored the "spotted fever".

Q. But those words were in the affidavit in German when you signed it?

A. Yes.

Q. In paragraph 5, beginning with the second sentence it reads in English in the affidavit before you, "From this time on the experimental station was known as 'Department for Spotted Fever and Virus Research of the Hygiene Institute of the Waffen SS'." Following those words in your original affidavit appear in parenthesis those same words in German, "Hygiene Institut der Waffen SS - Abteilung fuer Fleckfieber und Virus Forschung". Do you remember that?

A. Yes, that is right.

Q. Now, you had every opportunity, witness, to correct your affidavit, did you not?

A. Yes.

Q. Do you remember making any corrections in it?

A. Yes, I did.

THE PRESIDENT: In the last sentence in paragraph five appears the affidavit as originally prepared, quote, reading the last sentence: "I can recall meeting Dr. Mrugowsky in the home of Dr. Ding, on one of his many visits to Buchenwald." The word "many" is eliminated by a line having been drawn through it and in the margin following that line appear your initials "Dr. Hn". Does that to you indicate that you objected to the word "many" and asked that it be eliminated?

THE WITNESS: Yes.

THE PRESIDENT: And it was eliminated and you initialed the margin to show that you had asked that it be eliminated, is that correct?

THE WITNESS: Yes.

THE PRESIDENT: Referring to paragraph 11, that paragraph begins: "In some instances I supervised the killing of these unworthy inmates by injection of phenol." Following the word "phenol" appear in handwriting the words "at the request of the inmates". Your initials, "Dr. Hn", follow that addition. Does that to you indicate that you requested the addition of those words "at the request of the inmates"?

THE WITNESS: Yes.

THE PRESIDENT: It then appears, witness— Just a moment, there is another addition. At the close of paragraph 2, the last line reads, referring to yourself: "And remained under arrest until 12 September 1944." The affidavit was originally written with that date "until 12 September 1944"; that date was changed in handwriting to 15 March 1945. Is that the correct date when your arrest was terminated, 15 March 1945?

THE WITNESS: Yes.

THE PRESIDENT: That addition in handwriting is followed by your initials, "Dr. H.". Does that indicate to you that you corrected the affidavit by asking that the correct date be added?

THE WITNESS: Yes, Your Honor.

THE PRESIDENT: Do you remember that you were requested to initial with the words "Dr. H." or "Dr. Hn." every page of this affidavit?

Every page of this affidavit, as shown in the photostat, at the bottom of the page appear the initials "Dr. Hn.".

THE WITNESS: Yes.

THE PRESIDENT: Those were your initials and you initialed every page?

THE WITNESS: Yes, Your Honor.

THE PRESIDENT: Do not the facts which I have just referred to indicate that you read this affidavit very carefully?

THE WITNESS: Your Honor, it was read aloud to me and I followed it, as I said on Saturday.

THE PRESIDENT: Does it not indicate then that you paid attention to it when it was read to you and considered the language of the affidavit carefully and made corrections, which you felt were necessary in order to make the affidavit complete and correct?

THE WITNESS: I do not believe, Mr. President, that I read it very carefully. I made these corrections, just the ones that appeared to me and came to my attention, this date for instance.

THE PRESIDENT: Does it not also indicate that the person who read you the affidavit was anxious to have the affidavit prepared exactly as you wished it by adding corrections which you suggested?

THE WITNESS: As to the word "friendly" I objected and no changes were made. This is on page 3, the sixth line from the top; it says "very friendly". I objected to that for "Zweckfreundschaft".

THE PRESIDENT: But other suggestions which you made were followed, were they not?

THE WITNESS: Yes, Your Honor.

THE PRESIDENT: Does it occur to you now, or did it occur to you then, that if there were any words in the affidavit, which you did not fully understand, that the meaning would not have been explained to you?

THE WITNESS: No, I cannot say that. I think the reason was I should have demanded that I be given the affidavit to study it carefully and would be given enough time to read it through. It was possibly my fault;

I failed to make that demand. I had the impression that the man who was making the affidavit was in a great hurry; he kept offering me the fountain pen, and that is why I signed it. Perhaps I was a little careless. It was also a fact that my interrogator had the impression from what I told him that I spoke English and after a few days he gave me a part of the affidavit, my life history, in German, not in English like this affidavit, but in German. There it was discovered that, although I read the English version of the affidavit before, I saw so many mistakes when I saw it in German that we had to rewrite it.

THE PRESIDENT: I will ask the secretary during the recess to procure the original of this affidavit. I assume it is available in the office of the Secretary General. I would like to see it.

The Tribunal will now be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. HOFFMANN (Counsel for the defendant Pokorny): Mr. President, I ask that the Tribunal excuse the defendant Pokorny from attending this afternoon's session so that he may prepare his case.

THE PRESIDENT: At the request of the counsel for the defendant Pokorny, the defendant will be excused from attendance before the Tribunal at this afternoon's session in order that he may consult with his counsel in preparation for his defense.

You will return to the secretary the original affidavit and the photostat copy. Counsel may proceed.

BY DR. GAWLIK:

Q. When did you see what the affidavit that you had signed really meant?

A. I saw its precise meaning when it was read into the record. Counsel, I should like to state that on Saturday when the Tribunal asked me to pick out the specific words that I had not known the meaning of, I interpreted that task very strictly, and chose only those words the meaning of which I had not known at that time, and those regarding which I felt any doubt at all, I assumed that I did know the meaning.

Q. Now, you said here that you didn't know the meaning of the word "affidavit". Did you then know what significance this paper that you signed had?

A. I don't believe I knew very well what I was signing, otherwise I should have had it put to me in German.

Q. You have now stated in paragraph number 6, in the second sentence, that you didn't know the meaning of the word "frequently". What you wanted to say was "I discussed the problems with Ding," or rather as it stands in the document, "I frequently discussed matters with Ding."

A. Yes, that is so. It is true that I did not discuss these things frequently with Ding because Ding very soon saw that I didn't know very much about them, nor did they interest me.

Q. What do you have to say about the next sentence. It also says

in that same sentence we just mentioned, under number 6, that you visited his experimental station from time to time.

A. Yes, that is so, I did that. Frequently I visited the experimental station.

Q. What was the purpose of these visits?

A. My workshops were there. Moreover, I inquired as to the welfare of the prisoners who were accommodated there.

Q. Please take a look at number 8, which concerns itself with the selection of inmates for the experiments, and please describe now what your activities were in the selection of the experimental subjects.

A. You mean I shouldn't correct the errors in this point 8?
I shouldn't discuss this paragraph number 8?

Q Yes, of course, you should and set the matter straight.

A The Gestapo did not or the camp leaders undertake the selection of the experimental subjects. One day a representative of the foreign political prisoners came to me and I was told that there were political prisoners among the experimental subjects. They asked me to see to it that these persons should not be used in the experiments. I think there were two or three prisoners in question. I then went to the SS office, I don't know whether this was the Camp Commandatur or the Gestapo Department. I went to whichever it was. I went to the SS man who had the list of intended experimental subjects and told him that these foreigners, in other words, these prisoners in question were not really suitable subjects.

Q Is it true that because No. 8 contains a lot of words you don't know that it here says something you didn't mean to say at all?

A That is so, but aside from that I had the feeling that the interrogator or the translator did not understand me correctly or did not translate correctly because I never said I selected the prisoners. I did say that the prisoners had asked me to intercede.

Q Now take a look at the sentence that has Schober's name in it and tell us what was his activity precisely?

A It was Schober who wanted to include the political prisoners in the experiments. He was inclined to cross, it says here, he wanted to eliminate the political prisoners from the list and put in professional prisoners and criminals but it was just the opposite what he did.

Q Please take a look now at No. 2. To what extent is No. 2 actually erroneous and to what extent does it need further elucidation?

A In October 1939 I became assistant medical officer in the SS hospital but in the Buchenwald concentration camp that is not quite correct because the SS hospital had nothing to do with the concentration camp.

Q What should be differentiated between here?

A The concentration camp is to be kept separate from everything that existed outside of the protective custody camp.

Q Where was the SS hospital?

A It was outside.

Q And as Assistant Medical Officer in the SS hospital whom did you have to treat?

A The SS guards.

Q And did you have anything to do with the concentration camp?

A No.

Q Did you ever enter the so-called protective custody camp?

A No, no one could, because you needed a special pass to do that and only the camp doctors had it.

Q Now take a look at No. 3. To what extent does No. 3 need to be explained or corrected?

A The same is true here. "Due to my various positions in the Buchenwald Concentration Camp during this period of nearly four years I became acquainted with all phases of the medical activities therein and am hereby able to make the following statement." That is not true, four years, it began in January 1941.

Q And when did it end?

A On the 12 day of December, 1943.

Q What did you become then?

A Then I was taken prisoner by the Gestapo.

Q I come to another point now, other experiments, did you know that in Block 46 experiments were being carried out with yellow fever, paratyphoid, A and B, typhoid, diphtheria, small pox and so forth?

A No.

Q The witness Kirchheimer testified here, page 1325 in the English Transcript, that in Block 46 there were also experiments with yellow fever?

A Of that I know nothing.

Q I shall put document No. 571 to you, Exhibit 385, page 13, correction, page 14, document book 12. These are only reports. From the entries of 10 January and 24 March you can see that other experiments were carried out in Buchenwald. Did you in any way participate in the yellow fever experiments carried out on 425 experimental persons?

A No.

Q Did you hear anything about those experiments?

A No.

Q Did you select any of the subjects?

A No.

Q Who did?

A I cannot tell you of my own knowledge.

Q Who carried out the experiments?

A I assume it was Dr. Ding.

Q Did you carry out experiments in typhoid and paratyphoid?

A No.

Q Did you select the subject for them?

A No.

Q You know Exhibit No. 265, Ding's diary, did you see this diary during your activities in Buchenwald?

A I did not know the thing existed.

Q When did you first see it?

A During this trial.

Q Was one of the experiments mentioned here carried out by you?

A Not one.

Q According to this diary, page 48, document book No. 12, from the 19 to 25th November, 1943, four persons were experimented on with incendiary bombs. Where were you during that time?

A I was under arrest by the Gestapo?

Q According to the diary there were also two poison experiments carried out. Where were you at that time?

A At that time I was also under arrest by the Gestapo.

Q Did you take part in the phosphorous incendiary bomb experiments?

A No.

Q According to Kogan these experiments were carried out in the spring of 1944. Where were you then?

A Also under arrest by the Gestapo.

Q I shall put No. 571 to you, exhibit 285, page 15, in the document book 12. According to this document a gangrene experiment was carried out on 15 experimental subjects on the 8th of November. Where were you then?

A In the Gestapo jail.

Q How about the blood plasma experiments which Kogan says here were carried out in January, 1944. Where were you then?

A Under arrest by the Gestapo.

Q What do you know about the transfer of blood experiments?

A Nothing, because I was in the Gestapo jail at that time.

Q Do you know Dr. Rose?

A I know Rose was in Buchenwald but I cannot recall ever having seen him there.

Q Were you the doctor who conducted Rose through the experimental station?

A No.

Q Did you ever participate in any way in the experiments in Sachsenhausen which took place on the 26 October, 1944?

A No, I was in the Gestapo jail at the time.

Q Did you cooperate in Vernet's experiments?

A No.

Q Where were you when they were being carried out?

A In the Gestapo jail.

Q Did you have anything to do with the Ellenbeck experiments?

A No, I was at that time in the Gestapo jail.

Q Mr. President, as my next document I shall put in the affidavit by Reinhold Schittenhelm, it is Hoven document No. 14, pages 16 and 17 of the English document book, to attest to the credibility of this affidavit and to prove Schittenhelm has the necessary knowledge I direct your attention to the first paragraph of the affidavit. Let me point out Schittenhelm is a French citizen who was arrested for espionage in 1940 in France and was placed before a German court martial, Exhibit No. 3, your Honor, and that from January 1943 until his liberation by the United States Army was an inmate in the concentration camp. In other words this man is a person who would have no inducement to protect an SS doctor.

2. (continued) This French citizen, Reinhold Schittenhelm, says under No. 1, to which I draw your particular attention:

"The experiment 1 persons for Block 46 were not picked and decided upon by Dr. Hoven but by the prisoner's Camp management. I can affirm to this for the period since January 1943. At least once every week the senior block inmates were called to the office. The senior block inmates then decided which prisoners in Block 46 were to be used for experimental purposes."

From the next paragraphs it can be seen how the affiant has this knowledge.

Then as my next exhibit I put in the affidavit by Heinz Schneuble. This is Hoven Document No. 19 and this will be Exhibit No. 4. This is in the Supplementary Volume.

MR. HARDY: Your Honor, I don't have the Supplementary Volume at my disposal.

THE PRESIDENT: The Supplement was furnished to the Tribunal Saturday. There must be a copy available for you.

MR. HARDY: I have one now, your Honor.

BY DR. GAVLIK:

3. To prove the credibility of this person and to prove that he has the necessary knowledge for answering the question I point out that Schneuble from 11 of December 1940 until 1 October 1943 was an inmate in the Concentration Camp Buchenwald. He says under No. 1:

"I knew that persons used in medical experiments were not selected by Dr. Hoven but by the SS-camp-management.

My knowledge is based on the following personal experience:

In February 1943 I was selected by the SS-camp-management as a subject for medical experiments. I presume that the

for which I had been chosen was to be carried through in block 46.

It was Dr. Hoven's doing that they were prevented from carrying out this experiment on me."

This is to prove that Hoven kept persons other than betrayers and stool pigeons from being used in the experiments. Nos. 2, 3, 4, and 5 describe Hoven's general reputation and good character. Please let me say in this connection that I consider this material and refer particularly to Winthrop's Military Law and Procedure, page 350. This proves that it is improbable that Hoven did what he is charged with.

I come now to 14-F-13 action. Did you know of it?

A. Yes.

Q. When did you first hear of the action 14-F-13?

A. At the end of 1941.

Q. Who told you about it?

A. The camp commander at that time of Buchenwald, Koch.

Q. What was his reason for doing so?

A. Koch called all the heads of departments to him and told them about the 14-F-13 action.

Q. Were you then head of a department?

A. No.

Q. Who was?

A. My boss at the time, Dr. Max Blancke.

Q. Who else participated in this discussion?

A. The chief of the Gestapo department, the work assignment leader, the chief of gardening and construction.

Q. Why did you participate in this discussion?

A. I can't say for what precise reasons Dr. Blancke took me to this discussion. At any rate on this occasion Koch told us of the proposed action 14-F-13.

Q. What did he say?

A. He said that in the next few days a commission of doctors would come from Berlin to Buchenwald. This commission of doctors would seek out the cripples and the mentally ill. Moreover all Jewish inmates here at Buchenwald were to be included. These prisoners were then to be assigned to various transports and killed. Where this was to take place was not made known.

Q. How many 14F13 actions were carried out at Buchenwald?

A. While I was active there only one.

Q. I put to you the fact that the witness Mennicke has testified that twice, namely in the autumn of 1940 and the autumn of 1941, he was in Buchenwald. This is page 1883 of the English record. What do you have to say about that?

Q. Whether he was in Buchenwald in the autumn of 1940 I do not know since at that time I had nothing to do with concentration camps but was assistant doctor for the camp doctor. But, I do know that at the end of 1941 a commission of doctors was in Buchenwald to carry out the 14F13 order.

Q. Did you bring about the filling out of any questionnaires for the carrying out of this action 14F13?

A. No.

Q. Were any questionnaires for 14F13 ever sent to you?

A. No.

Q. Did you select prisoners for the 14F13 action?

A. No.

Q. Dr. Kogon said that the 14F13 action was done through the prisoners' hospital. This is page 1211 of the English transcript. What do you have to say about that?

A. I don't believe that at that time Kogon knew anything precise at all about this action because the only person who told the prisoners anything about this action was I. I told

the leaders of the illegal camp management and a few liaison men of the Jews whom I was in steady touch with. And, I told my secretary Rudolf Gottschalk. For two reasons these persons told no one else about the action. First, because they would have more than endangered their lives and secondly, because they knew it would mean my certain death because there was a secret order from Himmler that whoever informed a third person of the 14-F-13 action was to be shot within 24 hours. For all these reasons Kogon could not have known about that action at that time. Aside from the SS officers who attended that conference no one from the SS either knew anything about the action because this special security order of Himmler kept the 14-F-13 action strictly secret. Moreover Mennecke knew more about this than Kogon. While Mennecke was in Buchenwald he drew up a detailed written report of his activities in Buchenwald and sent it to his wife. In this letter he said nothing to the effect that his work had been supported by me or by any other doctor or any prisoner nurse. In view of the detailed manner in which he described his activities in Buchenwald he certainly would have mentioned a fact of such importance as that.

Q. I have just been told that apparently a mistake has been made by the interpreter. You said that at the end of 1940 you were assistant doctor with the troops, is that correct?

A. Yes.

Q.. That was translated as assistant to the camp doctor.

A. There is a great difference there.

Q. Perhaps you had better explain that difference.

A. The assistant to the camp doctor is an assistant to the camp doctor, namely the concentration camp doctor. I was assistant doctor for the troop doctor, the man who treated

the SS troops and units.

Q. Do you know Dr. Mennicke?

A. I cannot recall ever having seen Dr. Mennicke in Buchenwald.

Q. Let me put his testimony to you, page 1897 of the English record, in which he says that he greeted you once. What do you have to say about that?

A. I have no doubt that Dr. Mennicke greeted me because my boss never got to work before 10 o'clock. For that reason I believe that Mennicke's testimony here is correct and he greeted me as Dr. Blancke's representative or deputy. Officially though I had nothing to do with him. I did not meet him privately either although he was in Buchenwald for several days.

Q.- R. President, as my next document I put in Hoven Document #6, Exhibit 5, this is page 23. This is a document that was put in in another trial here, a letter from the IVth of the Franckfort Court. The year seems to be missing from the date, but it can be seen clearly that the date is 1947. That can be seen also from the certification. I put this in to prove that the entire selection of the prisoners in Buchenwald was carried out by Dr. Mennicke alone without the assistance of no camp doctors and, particularly, without the assistance of Dr. Hoven.

I put Roehild's testimony to you. Roehild said that in Autumn 1941, all the Jews in Buchenwald were examined by the doctors to see whether they were capable of work and if they were not they were sent to the political department, and in the Spring of 1943, three or four transports left. This is page 1635 of the English transcript. Is that so?

A.- No, Dr. Mennicke corrected that. He also knew more. There are today only a few prisoners who know about this and Roehild is certainly not one of them. Roehild left the following out of consideration. The order read explicitly "All Jewish prisoners are to be taken for the U- P-13 Action." Thus, a medical examination by me or Dr. Blancke could not have been necessary. Moreover, why should they be examined? The important thing was not whether the Jews could work or not, but it said there unmistakably that all Jews in Buchenwald were to be taken for this action. Mennicke has already stated that he filled out the questionnaires of this sort by the thousands, but Roehild was only a clerk from 1943 on and cannot know of his own knowledge what he has said. He is simply reproducing a camp rumor. Four transports were to leave, but only one did.

Q.- Where did it go to?

A.- Subsequently, I found out from the prisoners that the transport went to Bernburg on the Saale.

Q.- Why did the other three transports not go?

A.- Because I, cooperating with the illegal camp management and the political prisoners and the Jews, prevented that.

Q.- Tell the Tribunal how you, in cooperation with the illegal management, prevented those transports from leaving?

A.- After the conference with Koch at which I first heard of the exterminating action which later came to be known as 14-F-13, I immediately got in touch with the illegal camp management, particularly with the Jewish liaison men, and my secretary, and I told them of what the action 14-F-13 intended. We consulted with one another and debated what we could do to prevent this action. These discussions occupied a considerable time. In the meantime, the commission of doctors turned up. The Jewish liaison men and I agreed with the illegal camp management that part of the endangered Jews should be classified as mason's apprentices and I took the necessary measures with this in conjunction with the work assignment leader. I told him that many of the Jewish prisoners were excellent skilled laborers. As Dr. Nealon has very correctly stated, there were conferences that lasted for days and consultation with all sorts of offices. Before I could achieve really definitive measures in this direction, the order came from Berlin for the first transport. Through Czech liaison men I was able to get the transport list from the Gestapo department. He could not find out, at that time, what the destination of the transport was. I brought it about with my boss, Dr. Blanche, that all political prisoners who, on Kuschnir-Kuschnerov's incentive and the incentive of the other informers and stool-pigeons had been put on the list were to be taken from it. I lied to my chief, Dr. Blanche, and told him that these prisoners were not capable of standing the transport. He would hear nothing of any further scratchings from the list. He said they were all going to die any way. I couldn't prevent the transport from leaving altogether since I had a boss above

me who, so far as the prisoners were concerned, had a basically different orientation than I did. Only at the last minute was I told, shortly before the transport was to leave, that it was going to leave. Since I had just returned from Weimar, I found out that a nurse from the prisoners' hospital was included in the transport. After long negotiations with Dr. Blanke I succeeded in extracting this nurse from the transport. I was able to prevent the second transport's leaving altogether because I had the Jews intended for that transport assigned as mason's apprentices and, if a person couldn't so be classified, I kept this prisoner as long as the danger lasted either in some section of the hospital, or I classified them as out patients or I said that they were suspected of having typhoid. All these measures I cannot describe in detail. Dr. Kohn stated correctly, as I have already said, that there was always a tug of war which worked out to my advantage, not in the least because I was able to use the products of the oft-mentioned illegal work shops and was able to carry out exchanges which protected the endangered Jews.

I prevented the third transport in the same way. One of my colleagues had begun a paper on the anthropological measurements of Jews, and the liaison men of the Jewish prisoners, men by the names of Kohn and Hochster, brought this to my attention and proposed that this work should be continued officially to provide a further reason for preventing the transports. It was so done. That is to say, no one really did any work on this paper, but we had it ready at all times. Since the prisoners knew that such theses and papers were looked on favorably by the top office in Berlin, we were able, in this way, to save a great number of people.

So far as I remember now, I prevented the last transport by stating, contrary to the truth, that the Jewish prisoners were suspected of having typhoid. I must say that this plan did not originate with me but was worked out by the Jewish political prisoners. The plan worked very well because the SS camp management had a very considerable respect for sci-

domics.

Finally, letters came from the WVHA saying that only Jewish prisoners could be transported who were not capable of work. The commander showed me this letter and, in the meantime, I had become the first camp physician. On my suggestion, the commander then reported to Berlin that there were no prisoners in Buchenwald who were not capable of work. This brought it about that the continual inquiries from Berlin about the transports stopped coming in. Because of these continual inquiries, it had been necessary to prevent the same transports leaving several times running.

Q. Is it then true as Dr. Eogan said on page 1273 of the English transcript, is it true that it was due to you that in the beginning of 1943 there was a large number of Jews in Buchenwald?

A. There can be no doubt about that. In addition I also mention that at about that time until my imprisonment in September 1943 there were a great number of Jews in Buchenwald. It must also be mentioned that I had classified the Jewish prisoners as apprentices and who were working as skilled laborers in the Gustlof works. These were the only Jews who had been interned in 1938, and who had managed to live until the American Army liberated them seven years later. Moreover, these were the only Jews in all the German concentration camps who had been incarcerated in 1938, and had survived, so that they could be liberated by the Americans. This fact was a miracle by the Americans as I was told by one of my interrogators. So far as the acts of 1944 and 1945 are concerned, there can be no doubt that it was the will of the Berlin office that Buchenwald was to be cleared of Jews by 1941. That this did not happen is not due solely to me. I should like to emphasize at this time that I was successful in this only because the German political prisoners did a vast amount of work risking their lives everyday. The same is true of the Czech liaison men who were in the Gestapo Department, risking their lives pecking into official files which were never accessible to me. These Czech prisoners gave me a copy of the death list. On the basis of it the German political prisoners could be saved from the 14 f 13 action. Primarily the thanks must be given to the Jewish prisoners, namely Max Hechster, who was city architect in Frankfurt on the Main, originally, and Andre Behrens a relative of the banking house of Behrens in Hamburg, and George Warburg, a relative of the banking house of Max Hechster, I believe in New York. These Jewish prisoners worked in the counter-action or what we called 13 f 14. They stood by me throughout and advised and helped me.

DR. GAVLIN: Mr. President, in this connection I submit Hoven Document VII. This will be Exhibit 6. This is also a letter from another trial from the Fourth Criminal Court of Frankfurt on the Main. From this it can be seen that all Concentration camps, including Buchenwald were to be cleared of Jews. This document is to close this part of my evidence. I have found out by interrogating people that when Buchenwald was liberated there were a large number of Jews present, and I have also discovered that Dr. Hoven prevented many transports of Jews, and through this letter I wish to prove that this is something Dr. Hoven can give credit for.

MR. HARDY: I move this be stricken from the record, and counsel be instructed to examine the witness, and not to testify on behalf of the witness.

DR. GAVLIN: I simply want to explain to the Tribunal the reason I put in this document, so that this will be understandable to the Tribunal.

THE PRESIDENT: Very well. Proceed.

Q. I also show you PS-1151, Exhibit 411, Document Book 16, page 18 of the English Document Book. This is the letter from the Inspector of the Concentration Camps, 12 December 1941, which was sent among others to the camp commander of Buchenwald. Did you know about this letter?

A. No.

Q. And the questionnaire forms mentioned in this letter, were they given to you by the camp commander?

A. No, but they wouldn't have been given to me anyway, because I wasn't first camp doctor at that time. If it had been given to anyone it would be given to Dr. Blancke, who was the first camp doctor.

Q. Do you know whether Dr. Blancke received such letters?

A. I don't think so, because if he had, of course, I would have found out about it also.

Q. How can you explain the fact that these questionnaires were not sent on to Dr. Blancke who was first camp doctor in Buchenwald, how can you explain that fact they weren't sent?

A. I can explain that only as follows: filling out the questionnaires was no longer required in Buchenwald. This letter is dated December 1941, however, Mennecke, as can be seen from this letter, had already been in Buchenwald at that time previously. The forms which were annexed to this letter were to be the preparation for the coming doctors' commission, but since the Commission of Doctors had already finished its work in Buchenwald and had filled out the forms itself, it was no longer necessary to send these forms out again. I assume that these forms were kept by the camp commander in Buchenwald, and not sent on to the camp doctor.

Q. Please look at the last paragraph of this letter following the completion of the examination of the inspector of the concentration camp and to make a report in which the number of the prisoners who were directed the special treatment 14 f 13 are to be mentioned; did you make any such report?

A. No, and if there had been any such report it would have been Dr. Blancke's job, and not mine. However, I cannot recall that any such report was ever made. I think what is meant is that the camp commander should make the report to the Inspector of the concentration camp.

Q. I show to you also Document PG-1151, a letter from Arbeitsgruppe B of 26 March 1942. Page 43 of the English Document book. Do you know the contents of this letter?

A. Yes.

Q. What was done in Buchenwald as a consequence of this letter?

A. On the basis of this letter I told the camp commander that Buchenwald contained no prisoners capable of work. Gutschalk, my first secretary drew up this letter, and I signed it and sent it to the camp

commander. It was then forwarded to Berlin. I know this for certain, because on the basis of our letter we finally had the assurance, namely the prisoners and myself, that at any rate in Buchenwald the 14 f 13 action had come to an end. Of course the joy of those who participated in our counter-action 14 f 13 was enormous. And because of this the transports wanted for 14 f 13 were abolished once and for all.

Q. Please tell the court what this 13 f 14 meant; the counter-action?

A. This was our counter-action, where I and the Czechs and Germans, and Jews took part in. It was just a pun --- we named our counter-action 13 f 14.

Q. This then was a counter-action undertaken by the illegal camp commander in connection with this in Buchenwald, to keep the Action 14 f 13 from being carried out?

A. Yes, but you have forgotten the four Jewish prisoners whom I mentioned before.

Q. Now, back to this letter of 28 March 1942; how could it be ascertained whether a person was capable of work?

A. It was never ascertained at all whether the people were capable of work. Without conducting an examination, I told the camp commander they were all capable of work.

Q. I come now to Mennecke's letter to his wife, in which he says that in November of 1943 he filled out questionnaires for 1000 Jews and 300 Aryans. This letter is in the record on page 1944 of the transcript. Did you have anything to do with filling out these questionnaires?

A. No.

Q. Please turn to page 29 of the English document book. This is document 1151-P.S., a letter of 16 March 1941 to the commander of the concentration camp Gross-Rosen. The prosecution asserts that this list was prepared for the commander by the camp doctor. On the basis of this document the Prosecutions claims the following and I quote: "This list simply describes what went on in the Camp Gross-Rosen. Oranienburg issued the orders that the concentration camps themselves should choose the prisoners who were to go in the transports." The Prosecution takes the view that the selection was made by the camp doctors and the defendant Hoven took care of this in the Camp Buchenwald; now is that correct?

A. That might have been the case in Gross Rosen, but as I have already said in Buchenwald the commission of doctors came before the letter from the inspector of concentration camps, also in Buchenwald the Jews did not have to go through a preliminary physical examination by the camp doctors, because the order read specifically and therefore all Jews interned in Buchenwald were to be included in action 14-F-13, I really could not see why a physical examination would be necessary in such a case. Dr. Mennecke expressed

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this very clearly, as I remember. Then it can be seen from Mennecke's testimony that no doctor in Buchenwald supported him in his activities there. All this goes to show that the situation in Buchenwald was not the same as the situation in Gross-Rosen. I gave no support to the Doctor's Commission under the direction of Dr. Mennecke and made no preparations for them at all, nor do I know that Dr. Blancke did either.

Q. Were you in Bernburg?

A. Yes.

Q. When?

A. In April of 1943.

Q. Why?

A. A prisoner doctor from an outside camp told me that in this camp two prisoners died a natural death and I went there for the cremation.

Q. Did your visit to Bernburg have any connection with the action 14-F-13?

A. No, that can be seen from the fact that this visit took place one and one quarter years after the transport had left Bernburg.

Q. Whom did you speak with on your visit to Bernburg?

A. A Dr. Eberl - E-b-e-r-l.

Q. During this conversation was the action 14-F-13 discussed at all?

A. No, the conversation lasted a maximum of ten minutes. I then went out to the outlying camp where the two prisoners had died.

Q. Please turn to document book 12 again, page 1 of your affidavit, No. 9, this number concerns itself with the Euthanasia program. Kindly tell the Tribunal what sentences in here are incorrect?

A. "In accordance with these orders 300 to 400 Jewish
9846

prisoners of different nationalities were sent to the 'Luthanasia Station' at Bernburg for extermination." Now I don't exactly remember what number I said.

Q. Well, suppose you tell us just what did happen?

A. There were about 300 Jewish and non-Jewish prisoners. It is not stated in this sentence that there were non-Jews also.

Q. What else is wrong?

A. "A few days later I received a list of the names of those Jews who were exterminated at Bernburg from the Camp Commander and was ordered to issue falsified statements of death. I obeyed this order."

Q. Then, what really did happen?

A. I think it is my fault and not the fault of the interrogator that I expressed myself unclearly. Here the statement in itself is incorrect, to be sure I did not receive the order in turn from the camp commander. For the reasons I have already given, I paid no attention and laid no importance on the signature.

Q. Who issued these death certificates?

A. The prisoners did.

Q. Whom did you discuss the matter with first; with the aforementioned four Jewish prisoners; were these four prisoners part of the illegal camp committee?

A. Yes, there were Jews on that committee, namely those four. I must also say how this came about. I could not send this back to Dr. Blancke because this was a very long and tedious work since I had to write out all the death certificates myself and then Dr. Blancke would have to write them out himself, but the Jewish prisoners who were advising me told me that I should leave the making out of death certificates up to them, because the usual death certificates

were only three or four lines long, stating that on such and such a date, such and such a prisoner had died of such and such a disease. The Jewish prisoners thought it would be better if I drew up an extensive death certificate in order not to frighten and make uneasy the person's relatives, because I remember the Jewish prisoners telling me that in the newspapers they always read announcements of death in this form and they had the feeling that the relatives would be suspicious and made unhappy by this, so instead of drawing up the death certificate myself I left that up to the prisoners to do and then signed them myself.

Q. One question to make this matter clear, to what extent does number nine render a false meaning? Please read the last sentence.

A. "I visited Bernburg on one occasion to arrange for the cremation of two inmates who died in the Wernigerode Branch of the Buchenwald Concentration Camp." This might be construed to mean that simultaneous with the 14-F-13 action I was in Bernburg; however, that is not true, because in the beginning we did not even know that Bernburg existed.

Q. Then this trip described in this last sentence took place one and one-quarter years later and bore no connection with the 14-F-13 action?

A. That is correct.

THE PRESIDENT: Counsel, it is time for the Tribunal to be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

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23 June-A-11-13-1-Prinseau (Int. von Schon)

Court No. I, Case I

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 23 June 1947.)

THE MARSHAL: The Tribunal is again in session.

May it please your Honor, defendant Pokorny is absent having been excused by the Tribunal this morning.

THE PRESIDENT: The Secretary will not for the record the absence of defendant Pokorny, having been excused by the Tribunal in order that he may consult with his counsel.

MR. HARBOY: May it please your Honor the Tribunal, several days ago during the course of the presentation of the case against defendant Beiglboeck, prosecution requested the Tribunal to impound the charts in the two books which were the records of the experiments conducted at Dachau Concentration Camp concerning sea water.

At this time, the prosecution requests that the Tribunal permit them to be allowed to send these charts and records to Frankfurt. Prosecution desires to have the charts and records checked over by document experts, handwriting experts and people sufficiently capable to determine the content of the alteration and markings on the documents.

In view of the ruling of the Tribunal that these records will not be perused by either defense counsel or prosecution without the presence of a member of the office of the Secretary General, it therefore seems apparent to the prosecution that it will be necessary, in order to carry out their request, that a member of the office of the Secretary General accompany a member of the prosecution to Frankfurt while these documents are being worked on. If that meets with the approval of the Tribunal, we should like to have such a member from the Secretary General's office appointed to carry out this mission; or if the Tribunal deems it unnecessary to send such representative, the prosecution requests that they be allowed to take them, or to take the documents and have them sent to Frankfurt for this purpose.



Court No. I, Case I

THE PRESIDENT: Counsel for defendant Beiglboeck not being present, the Tribunal would be glad to hear from him in connection with this matter before final direction is given.

MR. HARDY: Your Honor, we are not in a position to wait for a period of a week for the defense counsel for Beiglboeck. I think he has gone to Vienna. This is a matter which prosecution deems relevant and would like to have permission to send them up inasmuch as we have now received —

THE PRESIDENT: The defense counsel indicates that Dr. Steinbauer is present in Purnberg.

MR. HARDY: Could we take that up later today so that we could send these representatives up tomorrow inasmuch as the laboratories in Frankfurt will be available to us tomorrow?

THE PRESIDENT: The matter may be taken up as soon as the defense counsel for Beiglboeck arrives.

MR. HARDY: Your Honor, we can continue with our examination. When the defense counsel for Beiglboeck arrives we can take up the matter again.

THE PRESIDENT: Counsel for defendant Hoven may proceed. The other matter may be taken up when the counsel for Beiglboeck arrives.

MR. HARDY: Am I correct in assuming the defense counsel for Beiglboeck is here in the city?

DR. GALLIK: My colleague, Dr. Keltz, has gone out to get Dr. Steinbauer. I assume my colleague Steinbauer will be here shortly. He is in Purnberg. He has not left.

THE PRESIDENT: Counsel may proceed. Counsel may proceed.

WALDEMAR HOVEN — Resumed

DIRECT EXAMINATION (Continued)

BY DR. GALLIK (Counsel the defendant Hoven):

Q.— I come to the subject of killings. Were prisoners killed with your knowledge or by you?

Q Why were these two people killed?

A I do not know.

Q Is it true that Kogon went to you and Dr. Ding and tried to help these two people?

A Whether he went to Dr. Ding for this purpose, I do not know. If I had known anything about the arrest and intended killing, it would certainly not have taken place. Kogon testified himself that I was always willing at any time to try to save prisoners, and it wouldn't have to be Dr. Kogon who suggested to me to save prisoners. I tried to help any prisoner if it was in my power. In this whole affair, I know only that Polish prisoners informed me, and then it was arranged that another prisoner, also a Polish doctor, named Tzipyulowsky was saved. I transferred him to the outside camp in Wernigerode in order to get him out of the sight of Dr. Ding; but one must understand the environment and the mentality of the prisoners in order to know that in such a case I could not learn the truth. The fear of Dr. Ding was so great that no prisoner wanted to tell me exactly what was going on, since otherwise, he would be afraid for his life.

DR. GAWLIK: Mr. President, Dr. Steinbauer has arrived. Shall I interrupt my examination of the prisoner?

THE PRESIDENT: You may, counsel.

MR. HARDY: Does the Tribunal desire that I repeat my request again?

THE PRESIDENT: Yes, counsel.

MR. HARDY: During the course of the presentation of the case against the defendant Beiglböck, charts and two notebooks were presented containing information taken at the time of the sea water experiments at Dachau. At the time the prosecution requested that these documents be impounded by the Tribunal. Thereupon, the Tribunal ruled that said documents would be retained solely in the possession of the Tribunal, and that the prosecution and defense may peruse them at any time, but in the presence of a member of the office of the Secretary General.

The prosecution desires to have these charts studied by experts in their laboratory in Frankfurt in order to ascertain when some of the markings were made thereon, and the other obvious discrepancies in the charts and to report to the prosecution the results of their findings. In order to do that, the prosecution requests that they be allowed to send the documents to Frankfurt. In view of the ruling of the Tribunal the prosecution assumes that it will be necessary for the Tribunal to appoint a member of the Secretary General's office to take the documents to Frankfurt with a representative of the prosecution. That is substantially the request of the prosecution, your Honors.

THE PRESIDENT: Counsel for the defendant Steinbauer -- I mean, for the defendant Beiglboeck, Dr. Steinbauer, being present has heard the statement by the prosecution.

DR. STEINBAUER (Counsel for the defendant Beiglboeck): Your Honors, I believe that this application of the prosecution is superfluous. By the detailed examination in the presence of the Court and the concessions of the witness Beiglboeck, it has been clearly determined what corrections he made. As for the names, the General Secretary's office already has a list of names which is to be photostated and made available to the Tribunal and the prosecution. I don't remember how many names were in this list. As I recall, there were many more than submitted in court, and it also explains in which group this person was so that this list of names contains more information than the charts even if there had been no erasures. The important thing is that in the lists, in the curves on the front which are the proper, no changes were made; and that Professor Ivy testified here as an expert, and no doubt he had been informed by the prosecution what changes had been made, and he testified that these documents were an adequate basis for an opinion. I believe that was the reason why the Court accepted these documents. If the Court, contrary to my expectation, should grant the request of the prosecution, I ask that the defense counsel also be given an opportunity to examine the expert and to

confirm with him.

MR. HARDY: Your Honors, this request is in the same nature as the request made by Dr. Flemming many months ago to have the Ding diary analyzed by an expert.

THE PRESIDENT: The request will be granted by the Tribunal. The only question concerns some detail. Do I understand counsel for the defendant Beiglboeck, if the documents are sent to Frankfurt for expert examination, he desires a representative to accompany the documents as well as a representative of the prosecution?

DR. STEINBAUER: If a representative of the prosecution goes, I should like the defense to have the same right.

MR. HARDY: Of course, your Honors, the defense may take the documents to his own expert. He has one in Nurnberg, the defense counsel does, but we haven't been able to make him available to the prosecution. The prosecution does have a laboratory, however, in Frankfurt to determine whether or not the ink notations contained on the notes of 12 September --

JUDGE SEBRING: As I stated, the request to send them to Frankfurt will be granted by the Tribunal. Mr. Hardy, how long do you anticipate that it will take your expert to make his inspection and findings? Will he be able to do that on the same day that the documents are taken there?

MR. HARDY: Unfortunately, your Honor, I am not able to estimate that; however, I would think it would take longer than one day. There are 44 charts, and how extensively they do their work with microscopes and whatever is the process used in such work, that I am not too familiar with. The laboratory is run by the U.S. Army, by the C.I.D., and they have working in there German nationals who are experts in this type of work. How long it takes, I am unable to determine, Your Honor. Perhaps I could inquire and report later, but I don't think I could get any further information.

JUDGE SEBRING: It has been referred to the Tribunal that perhaps if the matter could be completed in a day, there might be a possibility

of ordering a member of the Secretariat to retain the documents in his custody, to take them to Frankfurt, and there act with the power of the Tribunal as a commissioner; and at that time, be empowered to take such questions and answers as might be propounded by either side, reduce them to writing, and bring back the papers and make his return as commissioner of the questions and answers together with the analysis and report of the experts.

MR. HARDY: That could be easily done that way, Your Honor.. However, I am merely certain that such an operation would take more than a day.

JUDGE SERRING: Could you investigate that?

MR. HARDY: I can investigate that, but I will be unable to report today unless I could use the recess time. As soon as possible, we would like the mission to return to Nurnberg inasmuch as we may be done here in a week or two.

MR. STEINBAUER: May I make a remark, Mr. President? In case these big charts are submitted, then I ask that the two small books are taken along, too. As far as I recall, Professor Beiglboeck said that the weights entered in ink on the upper edge were not written by him at all, but by a French medical man; and these books which were kept by the Frenchmen, there is the handwriting of this Frenchman, and it would be necessary to compare them. If he only has the charts, of course he cannot compare the handwritings.

THE PRESIDENT: I understand that the request of the prosecution included the two small books. These will go with the charts? This might be done! The documents might be sent to Frankfurt under the cover of the Secretary General. The experts then might examine them and when they have done so, counsel for the prosecution and counsel for the defense could go over and listen to the report of the experts and ask them any question that they might desire to ask.

MR. HARDY: The purpose of the prosecution in sending the documents to Frankfurt is to ascertain what, where and when the entries

were made. And this is purely on the behalf of the prosecution. If defense counsel has any objections, I don't see why they can't send a representative there with him; however, the prosecution doesn't necessarily mean to take the documents out of the hands of the Secretary General, inasmuch as they have been duly and correctly impounded by the Tribunal. But if a member of the Secretary General's office could accompany — in other words, take the documents there, then the prosecution could have the work done that they deemed to be necessary. It may prove that the work is fruitless; however, it may in turn prove enlightening in some things that we have misgiving about.

THE PRESIDENT: Of course, counsel for the defendant Beiglboeck is entitled to examine the expert that makes the report.

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MR. HARDY: Assuming of course, the Prosecution wishes to introduce the report, in the Prosecution determines that the alterations are something of material value to the Tribunal, then we will, of course introduce a report, and if necessary have the particular experts involved come here to testify. However it is next to impossible to have this work done here in Nuernberg due to the fact we don't have the laboratory.

THE PRESIDENT: The Tribunal understands that thoroughly, if it understands counsel for the Prosecution correctly he stated after the Prosecution has the reports and if he desires to use them before the Tribunal the expert who made the examination would be available here in Nuernberg.

MR. HARDY: We can make the chief of that department available in Nuernberg for a day. I don't see why that would be impossible. I think that it is very possible.

THE PRESIDENT: Well if the Prosecution undertakes that, if the documents are used here with that report by any expert from Frankfurt, that that expert will be here available for cross examination, and if the defendant desires to cross examine the witness he will be here available, then I question whether there is any particular necessity for counsel for defendant Beiglboeck going to Frankfurt with the documents. Do you agree, Dr. Steinbauer?

Dr. Steinbauer: Yes.

THE PRESIDENT: Then the Tribunal will enter an order that the documents in question be taken to Frankfurt by a representative of the office of the Secretary General to be named and that a representative of the Prosecution may accompany the documents and call the attention of the experts to those matters upon which he desires the expert to concentrate his attention, and then when the expert has made his report if the Prosecution desires to use that report in any way whatever before the Tribunal that the expert who made the report will be available or

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someone who understands the matter will be available here in Nuernberg for cross examination by defense counsel and will testify before the Court as to his view.

MR. HARDY: Yes, Your Honor. Would that appointment of a representative of the Secretary General-

THE PRESIDENT: I beg your pardon.

MR. HARDY: Would that appointment of a representative of the Secretary General's office be fulfilled today so that orders can be made out and so forth to leave perhaps tomorrow?

THE PRESIDENT: Yes, the appointment can be made at any time. I don't know whether know whether Mr. Wartina could go or not or whether he would be suitable or any one who would be suggested to accompany the mission as custodian of the documents.

MR. HARDY: Thank you, Your Honor.

THE PRESIDENT: Counsel for the Prosecution during the afternoon recess shall ascertain what representative of the Secretary General can take the documents.

MR. HARDY: Yes, sir, I will ask Colonel Ray.

THE PRESIDENT: And then order should be prepared for signature by the Tribunal, an order should be prepared embodying the order of the Tribunal, a written order.

Counsel for defendant. Have proceed.

BY DR. GAWLIK:

Q Witness, what do you know about who killed these two Polish prisoners.

A In May 1945, Dr. Ding at Freysing accused me of killing a Polish doctor. Ding assumed that I was no longer alive. On the basis of this accusation I was arrested and also taken to Freysing. This was on the 23rd of June 1945. When Ding learned that on the 23rd June 1945 I would come to Freysing he attempted suicide on the evening before, that is on the 22 June 1945. The attempt was unsuccessful, however. He had cut the

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artery in his left hand. On the 28th June 1945, I was interrogated in Freysing because of this accusation of Ding's. Since I knew nothing even about the killing of the doctor I was to be confronted with Dr. Ding personally, but Dr. Ding preferred instead to make a confession and admitted that he had done it himself. That is all I know about the matter.

Q And I put to you the testimony of Dr. Kogen in this connection. This is on page 1215 of the English record. Kogen said the following I quote:

"Who exactly killed the three prisoners?

"Whether it was Dr. Ding or Dr. Hoven I did not see myself. It was said in the camp that each of the two doctors had killed one prisoner or one of them had killed two but I cannot say myself."

What do you have to say about this?

A When he reports rumors which circulated in the camp he knows exactly as well as I do what to think of them. When Dr. Kogen was Ding's first secretary such incredible rumors were circulated about him in the camp, that he was in the same with Dr. Ding and so forth. When I first heard of it I didn't even find it necessary to inform Dr. Kogen.

Q Did you know the prisoners Freudemann and May?

A Yes.

Q In what category of prisoners were they?

A They were professional criminals who had been previously convicted.

Q Is it true that these two prisoners treated the Camp Commandant Koch who had contracted syphilis?

A No, Walter Kramer, a former Reichstag delegate was the one Kogen meant here who was my first Kapo in the hospital with whom I was great friends. The thanks that Kramer got from Koch was that he was put in an outside camp and shot. The material had been supplied by Kuschnia Kuschnarev who was Walter Kramer's bitterest opponent. I wrote a letter

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to the Commandant in favor of Kramer but the only result was that Koch did not venture to murder Walter Kramer in Buchenwald.

Q Is it true that these two prisoners, Froudemann and May, were put in a typhus experiment because they had treated Koch in order to aid him in this way?

A No, they were not put in the experiment for that reason.

Q Is it true that these two prisoners were murdered in the prisoners hospital, killed there?

A That is true.

Q At whose instigation were these two German professional criminals, Froudemann and May, killed?

A At the instigation of the Committee of German and Foreign Political Prisoners.

Q In this connection, I remind you of Kegen's testimony on page 1282 of the English Transcript, in answer to my question and I quote:

"Are you aware that the political committee, that is the illegal camp administration, was involved in this killing?" End of quotation.

And Kegen answered: I quote:

"Later while I was in the camp I learned of that." Is this true?

A When Kegen says later he means the time and the reason for my arrest by the Gestapo. Since I refused to give the names of the prisoners who had been involved in the killing of these two SS spies I was accused because of this killing. Among other things these two were the best collaborators of the SS. The killing of these two informers and traitors was necessary because otherwise hundreds of decent German and foreign prisoners would have been betrayed to the SS by Froudemann and May and been killed in the camp. They were called Jew slaughterers because they literally beat Jewish prisoners to death.

Q.- By what right were these traitors and SS and Gestapo informers killed?

A.- The justification against people like these two one cannot judge from normal circumstances. The issue was not that they were informers, not just that they betrayed their fellow prisoners to the SS and Gestapo, but beyond that they had hundreds of murders on their conscience, not only murders they had instigated but murders they had performed themselves. The Prisoner Committee and I realized that they would continue in this activity if they were not stopped. They were morally very inferior characters who gave way to their own murderous instincts and against whom there was no protection. The victims among these were the most valuable among the prisoners, those who were under arrest for political reasons. One must imagine that men like Henry Plack, Dr. Horn and Dr. Kogon were their victims. But what they themselves were like, the Prosecution witness, Dr. Kogon, has shown with the example of Kuschnia-Kuschnarev. This was not an unusual case. It was a typical one. There was no other possibility of rendering such creatures inoffensive. I can imagine that the heads of partisan groups who are today considered heroes in their own countries had the same problem as the prisoners and I did. I know that such a decision was not easy and is incomprehensible to a person who does not know such an environment from his own experience and observation. But that such a decision was an absolute necessity is a fact which can be explained only in a comparative sense, as connected with the environment. If there had been any other possible solution the prisoners and I would not have chosen this solution but there was no other. If we had not acted in this way thousands of prisoners, the most valuable people, would have been killed by the SS. Such informers and traitors of the class of Kuschnarev might now be on trial but their victims could not be brought back and punishment would not bring them to life. None of those who fell victim to the camp justice which took the place of the criminal SS was

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tice was without considerable degree of guilt. There was no one among them who did not have many lives on his conscience. The Prisoners Committee and illegal camp administration combated such people and I helped them against such people. In full awareness of my responsibility I helped in the counter action against 13-F-14 only in the interest of the prisoners and in collaboration with them. I prevented death transports, some times the very same transport several times. I took prisoners into the hospital under false diagnosis in order to protect them from death through the Gestapo or SS. I helped German and foreign Jews whenever I could without consideration of a position which would be more than illogical as at the same time other prisoners had been killed those who played this terrible part in the camp. My whole conduct would have been inconsistent and senseless if it were not based on the single motive which always ruled me - that is, to help people who deserved it and to participate in the elimination of those who were nothing but murderers and criminals by instinct.

Q.- Were these killings carried out because these traitors and stool pigeons betrayed their comrades to the SS?

A.- The betrayal of their comrades was not the reason.

Q.- Then why were these stool pigeons and traitors killed?

A.- In order to prevent more political prisoners being killed, which would have happened if they had remained alive.

Q.- Did you make a distinction between decent and indecent prisoners?

A.- No.

Q.- You heard Dr. Horn. He said that you had a better name for the indecent prisoners. What was that name?

A.- The name used by the prisoners for those who Dr. Horn mentioned was of three kinds: Informers, traitors and stool pigeons.

Q.- In what way was it determined that these prisoners actually were stool pigeons, informers or traitors?

A.- As a rule a representative of the illegal camp administration determined this in the first place. But, I should like to say right now that every case was different. I can only describe this very generally. If the Gestapo section of the camp administration carried out arrests or transferred people to the stone quarries by way of punishment the illegal camp administration endeavored to find out the cause. I must add that in the course of time the prisoners and I were able to put representatives in important offices of the SS camp administration. But I should like to emphasize that in spite of all our efforts we did not succeed in having agents in all offices. These agents reported to the illegal camp administration who was responsible for these arrests or transfers. In the first investigations the illegal camp administration acted quite independently. In many cases I had no knowledge of the matter. As a rule I was involved only when the illegal camp administration with the aid of its agents was not able to determine the cause of the arrests. In these cases I went to the camp commandant, the head of the protective custody camp, the Gestapo section, and tried to find out the cause. The activity of these stool pigeons and traitors was now supervised by the illegal camp administration. They warned the traitors against going on. In some cases I had agents warn these traitors and stool pigeons. In many cases the illegal camp administration had the contacts of these traitors in the camp broken. Thus they were often unable to inform the Gestapo or other sections of the camp administration. On the other hand these traitors did not want to lose the benefits which they got from their activities. Therefore, they gave the Gestapo or some other office of the SS camp administration false information. The counter actions of this was that prisoners who had in no way acted against the SS were arrested and killed. This made their activities so horrible. If they had betrayed prisoners who were leaders of illegal German or foreign resistance movements at least they would

have had the appearance of justification but the names of these prisoners were so secret that even the informers learned one or another name only by accident. But since they wanted to have successes to show to the SS or Gestapo perfectly innocent prisoners had to suffer, persons who sometimes did not even know that there was a resistance movement in the camp. Therefore, there was general uncertainty in the camp and fear. Every prisoner had to expect to be arrested on the basis of such false accusations. After the traitors had repeatedly been warned in various sections by representatives of the illegal camp administration and Prisoners Committee and they refused to stop their activity, the Committee, the representatives of the foreign groups, reached the decision to kill such prisoners in order to save the lives of a number of decent prisoners, in this way, prisoners who otherwise would have been irrevocably lost.

Q. Mr. President, to support what the witness has just said and to prove the activities of these informers and traitors, I offer Document seven #9 as Exhibit 7. It is on page 33 of your document book. It is an affidavit submitted by the prosecution in Case IV as Document NO. 2122, Exhibit 179, an affidavit of a certain Karl Adam Roeder who describes the activities of such a traitor and informer. I should like to call the attention of the Tribunal especially to #7. He speaks of a certain Christian Knoll who was under Section 51 of the German penal code. I may add that this was a person considered legally irresponsible. Then I quote:

"Zill, the leader of the protective custody camp, made use of this man as an instrument for murdering hundreds of Jewish and other prisoners. I myself and a number of other prisoners were witnesses when Zill once asked him when he intended to come for his next meal (one chunk of bread and one piece of sausage). This meant that Knoll was to murder a round figure of one hundred prisoners before he got this meal. This Knoll answered: 'I have 97 and shall quickly dispatch the remaining 3 by noon.' At noon we saw him go into the orderly room (office building) and we also saw him return from the orderly room with the meal received. I myself saw repeatedly in the camp how he ill treated prisoners in the most heinous way with the unambiguous intention to kill them. In his capacity as Capo of the plantation he took an active part in the shooting of numerous Jewish prisoners by pulling the prisoners' caps from their heads and throwing them across the chain of sentries, so as to give the sentry a reason for shooting."

Witness, was the activity of the informers and traitors, killed by you or with your knowledge, similar to the description given in this affidavit?

A. Similar. There were many varieties.

Q. Now, I come back to your affidavit, Document K. 229, exhibit 231, in Document Book 12, page 1. I should like to discuss #10 which is on page 5. Please read #10 and tell me whether it is true that the purpose of killings was to keep prisoners in key positions as this paragraph might indicate, and what do you have to add to this paragraph which is only a brief summary?

A. This gives a false picture. It shows only one side. It was impossible, in an interrogation, to describe the whole environment in which I lived. It is impossible to describe this description in a brief affidavit. It is quite true that prisoners who were in key positions were envied by other prisoners and that traitors made false accusations against such prisoners to the camp administration, as well as to the Gestapo, in order to have such prisoners arrested and killed. A typical example of this is Kogan himself who admitted when he was examined that I saved him three times. Because of the position which he held, Kogan was envied by many prisoners and the most nonsensical rumors circulated about Kogan and accusations were made against him. Such traitors and stool pigeons, however, worked not only against prisoners in key positions. That was the minor part of the accusations made in the camp. Kuchnie-Kuchnerov, for example, betrayed Russian prisoners of war, among others, who did not hold any key positions. Froudemann and May betrayed Jewish prisoners, none of whom held any key positions. It is, of course, extremely difficult to sum this up in a few sentences. I tried to describe the conditions during my interrogations and, on the basis of this statement which I made, the affidavit was drawn up, not by me but by the prosecution, as I have already said. I did not know

what the prosecution was interested in. I did not know that the statement would be used against me. I had no reason to assume that it would be and, therefore, I did not consider it important to defend myself. As far as the statement was read to me, it was not incorrect, but merely incomplete. Therefore, I signed it assuming that I would have an opportunity, in case there was any lack of clarity here, to make a more detailed statement.

Q. And what was the further reason that you did not realize that this statement under #10 might give a wrong impression?

A. Well, one reason was that I didn't understand some of the English words.

Q. Please tell the Tribunal who Kuschnia-Kuschnarev was and what role he played in the Camp-Buchenwald?

A. Kuschnia-Kuschnarev was a Russian immigrant. Why he was in the camp, I do not know. He was already there when I came to the camp. In the course of time, he had succeeded in creating for himself an important position with the camp administration. No one less than the Chief of the Gestapo and the SD, Heydrich, had recommended him to the camp commandant. He went in and out of the commandant's office without appointment which was not permitted even to the SS officers. This small example shows clearly what position Kuschnia-Kuschnarev had. He took advantage of his powerful position for personal advantages and betrayed prisoners to the camp commandant, the Gestapo and the head of the protective custody camp. Kuschnarev had no inhibitions only his own advantage. He had unrestrained hatred, especially against the political prisoners, especially the foreign prisoners. The main treacherous activity of Kuschnarev reached its climax when the Russian prisoners of war came to

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Buchenwald. Kuschnir-Kuschnarev received the assignment from the Gostops to pick out the commissars, especially Jewish commissars, from among the Russian prisoners of war. I do not believe that there were any commissars left among the Russian prisoners of war who had already gone through several camps. In order to prove his efficiency and to maintain his position with the camp commandant, Kuschnir-Kuschnarev pointed out a large number of these prisoners of war as commissars and he said that the others were all really convinced Bolsheviks. Kuschnir-Kuschnarev was repeatedly warned by the illegal camp administration, especially representatives of the foreign prisoners. In this case of Kuschnir-Kuschnarev, the foreign agents took an especially important part. On the basis of his important position, we had to proceed very carefully. I cannot describe the details. I don't know them. The result of the warning was that the agents who had approached him were arrested and killed by the Gostops. The head of the illegal camp administration, a former German Reichstag delegate Walter Kraemer, whom I have already mentioned, who was in charge of the hospital under me for more than a year and with whom I was on very good terms and with whom I collaborated closely, was a victim of Kuschnarev's activity as an informer. Kuschnarev's did not stop his murder work. There was only no solution and that was to do away with him.

Q. Was Kuschnir-Kuschnarev a member of the United Nations?

A. No, he was a Russian immigrant.

Q. How was Kuschnir-Kuschnarev killed?

A. By an injection with evipan or phenol, I don't know which.

Q. I remind you of the testimony of Dr. Fogan on page 1204 of the English transcript; Dr. Fogan testified that you killed other persons at the suggestion of the SS, is that true?

A. That was quite impossible, since I was collaborating with the prisoners. As for the prisoners whom the Gestapo and SS did not like whom they wanted to eliminate and against whom they had informers or agents working, I fought against these agents together with the prisoners during the whole time I was in Buchenwald, and I saved the prisoners from the Gestapo and the SS. And Fogan must know that best, because he was one of them, one of the people who were on the liquidation list of the SS, and he has also testified how it came about that he was in a position to testify here, because I helped him against the SS and Gestapo and kept him off the transports, not once but three times, and it would be asking too much if on the one hand I risk my life to save prisoners and on the other hand kill them. The risk of my life would be unnecessary; but I need only have folded my hands, watched the informers and threatened collaborators with the SS and Gestapo to gradually clear the whole camp of German and foreign prisoners. But the Gestapo for a long time, especially since the death of their collaborator Kuschnir-Kuschnarev, discussed me and the death transports from which I had removed many people did not pass unnoticed in the course of time. The Gestapo had for some time been collecting evidence against me. My agents who worked for the Gestapo or SS had found that out from statements made by the SS and Gestapo and had warned me, but what I had to do was prescribed to me, just as for the illegal camp administration and the members of the foreign prisoner groups, and I continued to do this until the end. But if

Dr. Hogan's testimony, which I believe came from the camp rumors, were true you may be sure you would not now have the leading prisoners, and the German and foreign groups, like Pies, Dr. Horn, Saegers, Gotschalk and many others. They knew my work very thoroughly, and that they did so shows that they are just as brave and courageous as they were formerly and are not afraid of any unpleasant consequences and danger, but come to help me in my need just as I helped them; but they would never have done that if I had ever supported the SS and Gestapo against the prisoners.

Q. Then how does Hogan come to make this statement, can you explain that?

A. Hogan did not know of the circumstances, especially, since he did not belong to the committee of German and foreign prisoners, at least not during my time. During my time he did not take any active part. Many prisoners assumed that if a prisoner was killed it was at the instigation of the SS. They did not know that was an informer. Then, of course, this informer had a lot of followers who saw to it that such rumors did not come out, because these informers through the people that were working for the SS and the Gestapo could put their friends into good positions, and their friends in turn supplied them with information on the camp and the life of the prisoners, which they passed on to the SS and Gestapo, but since the names of the committee of prisoners were known only to a very small group of persons, only mine was left. This is how Hogan's testimony and many others came about.

Q. Were any prisoners killed by you or with your knowledge in the course of ATB action?

A. Not that I know of.

Q. I remind you of the testimony of Hogan on page 1214 of the English transcript, where Hogan said he could not say that while you were camp doctor or under your administration, patients were

killed by infection in the hospital or in the course of a TB action, but Kogan testified that there were epidemics. The camp officer "Guest, who was a violent opponent of the Jews could be named as having killings carried, what do you know about that?

A. I know nothing about that. It has already been stated here, that this was before my time.

Q. Now, I should like to show you the affidavit of Dr. Link, who has died in the meantime, dated 20 July 1945. It is Prosecution document NC 257, Exhibit 283, on page 9 of the German, 10 of the English Document Book 12.

THE PRESIDENT: As reading that affidavit will take sometime, the Tribunal will now take its recess before you start reading this affidavit.

The Tribunal will be in recess.

(Thereupon a recess was taken.)

Court No. I, Case I

THE MARSHAL: Persons in the courtroom will please find their seats. The Tribunal is again in session.

THE PRESIDENT: I would like to remind counsel for the Prosecution that it will be extremely advisable to expedite the attendance of any witness that the Prosecution will have in an endeavor to procure somebody who can be heard in case the defense rests their testimony.

The counsel for defendant may proceed.

MR. HARDY: Your Honor, I do not see the defense counsel for Pokorny here, but are the other defense counsel able to tell us how long he anticipates the case of Pokorny will take and whether or not he intends to call any witnesses?

DR. GALLIE: Mr. President, I cannot say anything for certain, of course, but I do not believe that the defense of the defendant Pokorny will last very long. However, as I say, I cannot be definite on this.

THE PRESIDENT: Of course, I understand that some of the defendants have some further documents to offer.

R. HARDY: Would it be possible, Your Honor, for the defense counsel this evening to have a meeting and determine how long the remainder of the presentation of defense will take in that they will introduce their other document books. I have acquired several supplemental document books in behalf of the defendant Karl Brandt, Handloser and other defendants -- and have them ascertain just how long it will take to then close the defense, before the prosecution will start on rebuttal? I think they can readily ascertain that this evening and report that to us tomorrow.

THE PRESIDENT: If defense counsel can heed that suggestion and discuss that matter amongst themselves and advise the Tribunal in the morning some idea as to the length of time it will require, it will be appreciated.

MR. HARDY: Thank you.

THE PRESIDENT: The counsel for defendant may proceed.

BY DR. GALLIK (Counsel for the defendant Woven):

Q.- Witness, before the recess we were considering the statement made by the late Dr. Ding, Document NO-257, Exhibit 283, page 15 of Book 12. Here Ding describes the killing of four or five prisoners. Let me ask you regarding this, were these also stool pigeons and traitors?

A.- Yes.

Q.- What was their citizenship?

A.- German.

THE PRESIDENT: The counsel for defendant may proceed.

BY DR. GALLIN (Counsel for the defendant Hoven):

Q.- Witness, before the recess we were considering the statement made by the late Dr. Ding, Document NO-257, Exhibit 283, page 15 of Book 12. Here Ding describes the killing of four or five prisoners. Let me ask you regarding this, were these also stool pigeons and traitors?

A.- Yes.

Q.- What was their citizenship?

A.- German.

Q. I turn again to your affidavit, Document No. 249, page 5 of Document Book 12. I should like to consider now number 11. What do you have to say about the first sentence? In particular, what did you understand the word "I supervised..." to mean?

A. I understood this to mean that I had knowledge through the prisoners' committee of the intended killing of these stool pigeons.

Q. How can this, in exact terminology, be explained, the use of the word "supervise"?

A. Here again I didn't know the meaning of the English word, namely, the meaning of the word "supervise".

Q. The president has already pointed out today that you inserted the phrase "at the request of the inmates." What did you mean to say here?

A. When I used the word "inmates" I was referring to the illegal camp administration.

Q. Is it true that this committee of German and foreign inmates decided that those traitors and stool pigeons were to be killed?

A. Yes.

Q. And now, please look at number 12. Here again the word "supervision" occurs. What did you intend to say?

A. The same as I intended in number 11.

Q. Will you please repeat that?

A. I was referring to the illegal camp administration and the committee.

Q. Well, it says here "under my supervision."

A. Yes, it says that this was done with my knowledge.

Q. And why was this erroneous terminology used?

A. Again I didn't know the meaning of the word supervision.

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A. Yes, it says that this was done with my knowledge.

Q. And why was this erroneous terminology used?

A. Again I didn't know the meaning of the word supervision.

Q. How large was the number of prisoners, or it would be better to say, the traitors and stool pigeons of whose killing you had knowledge?

A. 50 or 60.

Q. There was mention here in this affidavit of 150. What did you have to do with the killing of the remainder?

A. Nothing, nothing at all. I found out about that later.

Q. Who were the people in this remainder?

A. They were without exception stool pigeons.

Q. Then this remainder of 90 or so that were killed without your knowledge, of whose killing you found out subsequently, could you have prevented those killings?

A. No, they had already occurred.

Q. And if you had told the SS camp administration about this, what would have happened?

A. Probably ten times as many would have been killed, innocent persons.

Q. And who would have been killed?

A. Political and foreign prisoners. This would have been used as an excuse to start a new action.

Q. Do you know about the Wolf case?

A. Yes.

Q. Who was Wolf?

A. He was a camp trustee.

Q. Did you bring it about that Wolf was transferred to an outside camp?

A. No, that was done on the orders of the commander. I was working in closest collaboration with the SS, particularly with the administrative head of the protective custody camp, and he played a lamentable role in the camp. The political German and foreign prisoners were greatly

interested in seeing to it that Wolf lost his influential position, because the position as a trustee was one of the most powerful in the camp. It was indifferent whether he remained in the camp. The goal of the illegal camp administration, and my goal also was that a trustee who represented the interests of the prisoners should take his place; and with my assistance this was brought about. His successor was a political prisoner by the name of Reschke, if I remember correctly, (spelling) R-e-s-c-h-k-e. Moreover, contrary to what Kogon said, Wolf did not die in the outlying camp. That was simply a camp rumor; so far as I know he is under indictment in the Buchenwald trial.

Q. Kogon has testified on page 1204 of the English Transcript that Dr. Roeben left the prisoners alone, and if members of the illegal camp administration were pointed out to him, that such and such a person was a traitor he did away with him, is that true?

A. No, it is not.

Q. What was the actual situation?

A. The members of the illegal camp administration particularly the prisoners' committee to which specially selected foreign prisoners belonged, were not known to every prisoner; if they had been known, they wouldn't have lasted long. In this testimony of Kogon's, he puts the members of the illegal committee in a position that throws an altogether false light on the nature of the illegal camp administration. The members of the illegal camp administration to which foreigners also belonged, were the core of the resistance movement against the SS in the camp of Buchenwald. Throughout all those years they bore the main brunt of the struggle to preserve the lives of the inmates. The members of this committee daily risked their lives for

the welfare of the other prisoners. I know many of them who lost their lives in their fight for their comrades; but someone else always took their place. These sacrifices and urged the prisoners again and again to hold out, it supported them and helped them in every respect. If any of these prisoners could be saved who otherwise would have irrevocably been lost, then that was mainly the accomplishment of the members of the illegal camp administration. At my time, Kagan did not participate in this struggle for the welfare of the prisoners. Therefore, as far as this testimony of his is concerned, he cannot testify to anything of his own knowledge. Also, members of the illegal camp administration applied to me on Kagan's behalf, so that he too indirectly owes his life to that committee. In his testimony, he describes it as if I took a walk through the camp with the members of the illegal camp administration and the informers were pointed out to me, and then I immediately had them done away with. But the situation was rather as follows: As I have already said before, the illegal camp administration and the committee and the foreign liaison men conducted very careful investigations of the individual informers, and only when it was unequivocally proved that the informers were getting their orders from the SS or from the SS camp administration, then their fate was discussed by the committee. And only if it was unavoidably necessary, and if no other means were at hand, then they were killed. On the other hand, it really would be more appropriate to explain that in view of the situation in the camp at that time they waited to kill, because this terrible terror that the stool pigeons set loose in the camp really had to be brought to an end.

Q. Do you know the Gabrelłowicz case?

A. I don't really remember the name but now I know what you are talking about.

Q. Roemhild testified that you seriously mistreated Gabrelłowicz and that he died shortly thereafter. That is page 1640 of the English transcript.

A. That is not true. Roemhild is imagining things.

Q. What was the real situation?

A. Gabrelłowicz was a Polish informer working with the SS. I remember still that Gabrelłowicz was in Italy and played a role in the Fascist party there. For some reason or other that I don't know today he went to Buchenwald. Many prison members of the illegal camp administration, particularly foreign prisoners, charged Gabrelłowicz with being an informer, and it was particularly the liaison men among the Poles who represented that point of view. In the course of this discussion I left the room because I had been called for. Therefore, I cannot tell you of my own direct knowledge what happened, but that the discussion came to results I can well believe, but that he was so badly mishandled that he died of it, that I will never believe, and certainly he was never so mishandled in my office.

Q. Where was the killing of the informers or stool pigeons carried out?

A. In operating room No. 2.

Q. On page 1209 of the English transcript Kogon testified that the prison hospital was the execution chamber of the illegal camp administration. What do you have to say about that?

A. That is so, but Roemhild also said in this connection that it was only to be attributed to the activities of the illegal camp administration and the committee of foreign prisoners that at the end of the war the Americans were able to free 23,000 people who were still alive. Moreover, I should like to emphasize at this time that these informers and stool pigeons would have met death even if the prison hospital had

not been the execution chamber, and that otherwise it would have cost the lives of many valuable human beings. However, the way in which the informers were killed would have been slow and painful, because if there had been no other way they simply would have been beaten to death by the prisoners.

Q. Were only such people killed as the illegal camp administration designated as informers or stool pigeons, and did this happen without exception?

A. You would not say designated as informers. If the results of the investigation carried on by the illegal camp administration and the committee showed that the informer was a potential danger for the whole camp and if it were decided to kill this man, then this killing was carried out with my permission and my assistance.

DR. GANLIK: Mr. President, to substantiate the witness's statement I put in Hoven Document No. 18, which will be Exhibit No. 8. That is in the supplementary volume, the affidavit of the Dutch Town Councillor from Amsterdam, Leendert Seegers. Let me direct your particular attention to No. 12. Seegers here states:

"I know that Dr. Hoven only killed those of the prisoners systematically who had to be looked upon as SS and Gestapo spies or as dangerous collaborators within the camp."

Regarding the character of the affiant, let me call your attention to No. 1, also Nos. 2, 3, and 4. From this it can be seen that Seegers was in Buchenwald for three years and consequently has the knowledge necessary for this deposition. In further proof of Seegers' character I put in Hoven Document No. 8. This will be Exhibit No. 9. This is a report of the Dutch Committee concerning the illegal preparations for international anti-fascist cooperation in the camp Buchenwald. This is on page 25. Let me call your attention first to page 32. From this it can be seen that this report is signed by this Seegers among others, and this proves that Seegers was one of the leading personages in the resistance movement in the camp Buchenwald and in the illegal camp administra-

tion. It proves also that Seegers is in a position to judge regarding the necessity of the measures taken. I call your attention further to page 25, the second paragraph, quote:

"In order to understand this amazing fact it is necessary to give a short history of the hard and dangerous illegal activity and wearisome preparations.

"The members of all the nations represented in the Buchenwald camp took part in these preparations."

On page 26, the next to the last paragraph shows that the SS used professional criminals with many years of previous convictions as the extended arm for their shameful acts, namely, the act of destroying the political prisoners. Just what happened in detail is shown in the last paragraph on page 28; at the top it says:

"How many sick prisoners, for example, were hospitalized contrary to the intentions of the SS."

This was Hoven's activity for the welfare of the so-called decent prisoners.

Let me draw your attention to page 28, at the bottom, where it says:

"The German and Austrian prisoners who, as already stated, had occupied the most widely varying posts, entered into communication with the Dutch."

This is the same Seegers who signed the affidavit, and the Tribunal will also recall that this Pieck has appeared here as a witness, who also made statements regarding the necessity of those killings.

This again proves that Pieck has the necessary knowledge and that he is a person who can express an opinion in this matter.

Furthermore, on page 29 at the bottom you will find the statement:

"The Committee was composed of representatives of the Anti-Revolutionary Party, the Liberal Democrats, the Catholic and Social Democrats, the Communists, and the Independents. In the course of time the following took part in the work of the committee."

And then there are a few names, among them the name of Seegers and

the name of Pieck.

On page 30 in the middle it says:

"Under the leadership of the German veterans Walter Barth and Harry Kuhn and with the participation of Ernst Busse, representatives of France, Austria, Czechoslovakia, Russia, and the Netherlands took part in this first international discussion. Pieck took part in this work for the Netherlands."

This will clarify Pieck's personality, Pieck being the man I called here as a witness, who can say he played a position in the illegal camp administration. It reads further:

"For reasons connected with the conspiracy, only a few men of the committee should be taken into the secret."

This proves that this was a very small circle that could judge the necessity of these killings.

Let me draw the attention of the Tribunal to page 32. The report is signed for the Anti-Revolutionary Party by Dr. D. van Lingen; for the Liberal-Democratic Party by G. Ritmeester; for the Social Democratic Labor Party in the Netherlands by Aris Treurniet; then by Leegers; and for the Catholic Group by J. Robert.

Let me draw your attention now to Pieck's testimony, who said this J. Robert is the same man who was approved as a witness for me but who had a fatal accident ----

MR. HARDY: May I ask, your Honors, what defense counsel purports this to be?

DR. GALLIE: This, as you can see from the title, is the report by the Netherlands Committee on the illegal preparations for international anti-fascist cooperation in the Camp Buchenwald.

MR. HARDY: Where is the original?

DR. GALLIE: In Holland. Pieck brought the report with him, and I had the General Secretary prepare this copy.

MR. HARDY: May I see the copy, please? Then this copy in German certified by Captain Rice purports to be the copy of the original brought by Dr. Pieck?

DR. GALLIE: The Secretary General has certified it. Pieck brought it along. Pieck had to take it back with him, so I sent Pieck to the Secretary General.

MR. HARDY: Is this Captain Rice familiar with the German language?

DR. GALLIE: I assume so. He is a translator. I didn't worry about that. I just gave it to him in the defense counsel's office.

MR. HARDY: I don't know who this man Rice is, your Honor. I have no objection to it. I would like to know who Captain Rice is of the Secretary General's office. I never heard of him.

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certified by defense counsel Dr. Gawlik.

MR. HARDY: The original is, however, in order. Each page is certified by Captain Rice. I was just inquiring as to the background of the document.

THE PRESIDENT: Counsel may proceed.

BY DR. GAWLIK:

Q. On page 1209 of the English record Kogon testified that Hoven worked in closest collaboration with political prisoners. What do you have to say about that?

A. That is correct. I worked very closely with the German and foreign political prisoners. I also worked with the decent prisoners who wore the green triangle and were classified by the SS as professional criminals. It would be more correct to say I collaborated with all prisoners, no matter what category the SS had put them in. It was entirely indifferent to me what their previous profession had been, whether cultural or workers. I must say that in the majority of cases of the prisoners I saved I didn't know who the man was. This was the reason why, as Dr. Horn said, there were prisoners in those transports I kept from leaving who represented all professions, from Minister of State down to proletariat.

Q. Was there no way of doing away with traitors and stool pigeons?

A. If you had ever been in a concentration camp and knew the actual conditions there, you wouldn't ask that question. What was I to do? Should I go to the SS administration? Should I go to Koch or Lolling? To Gluecks, to Himmler, or to his Gestapo agent, Dr. Morgen, who on Himmler's orders was carrying out exterminations in the camp? And should I tell one of these people "Fuschnarev, or one of these informers you have employed, has killed hundreds of prisoners, turned Russian commissars over for extermination and let the Jews be beaten to death?" They would have told me I was crazy

or more probably they would have simply shot me, and no one would have been helped by that and nothing would have been changed, because the highest representatives of justice in the camp were also at the same time the main representatives of the extermination program in the camp. Nor should it be forgotten, and I should like to emphasize again now, that a political prisoner, whether German or foreign, was considered in the concentration camp to be the worst criminal, and his extermination from the point of view of the SS was a good deed.

1. In this connection I should like to draw the attention of the Tribunal again to Seegers' affidavit, namely No. 13. This is document No. 18 in the Supplemental Volume. No. 13, which reads: "Conditions in Buchenwald, where there was practically a state of war between inmates and SS, permitted of no other alternative, in my opinion."

"No. 14. These killings, as far as I know, were an absolute necessity for the growing organization of political prisoners in Buchenwald, which made of Buchenwald a camp which distinguished itself favourably from all other existing camps in Germany. It is safe to assume in this respect that Dr. Hagen just by this killing assisted consciously in saving the lives of thousands in Buchenwald."

No. 15. Here Seegers says there was no other possibility of doing away with informers, and he says at the end, "To continue to exist would have meant certain death for the illegal prisoner's organization in Buchenwald and for the leading prisoners and would have led to a catastrophe for the entire camp."

I furtherout in in this connection the affidavit by Philip Dirk. This is document No. 13, which will be Exhibit 10, page 45 to 48 in No. 13. Philip Dirk, Baron van Pallandt van Erbe, says in No. 16, the question is, "What do you think about the necessity of these killings?"

"They were probably very necessary."

"Has each killing saved the life of many times the number of prisoners?"

"Very probably."

"It. Under the existing conditions at the time at the Concentration Camp Buchenwald, was there any other way to render harmless these SS and Gestapo spies?"

"So far as I know, no."

Regarding the affiant's character, I draw the Tribunal's attention to No. 1. This man is not a German who is making this statement to help a former camp doctor in Buchenwald. This man is a Dutchman. Let me draw your particular attention to the fact that he himself says "I am chiefly interested in international and humanitarian movements."

In view of this, the statements made in questions 13 to 15 by this affiant should be of particular probative value. He also says under No. 1 "Since 1935 I have a school for Quakers in my manor. After the war I received an official recognition of gratitude from the US/ for having concealed a US airman for seven months, during the war."

Nos. 2, 3 and 4 show that he was in Buchenwald as a prisoner.

I shall further put in evidence the affidavit of Adolf Andre Hummel. This is Document No. 12 and Exhibit No. 12, page 40.

THE PRESIDENT: Is not that exhibit number 11, counsel?

BY DR. GAWLIK:

Q Correction, yes it is 11.

As can be seen from Page 40, this is a former political prisoner in Buchenwald who, on pages 41 and 42, makes statements regarding the killings. At the bottom of page 41:

"I know that prisoners have been killed with the knowledge of Dr. Hoven. It concerned without exception SS and Gestapo spies. The killing of each one of these saved the life of a vast number of prisoners. The killing of every one of these persons was necessary in order to save the lives of decent prisoners."

Then he speaks of the Kuschnir Kuschnarev case, which is well known to us by now.

Why did you yourself carry out the killings? Why didn't you leave it up to the illegal camp administration in all cases?

A Here again I must give you the same answer that an officer would give, after a battle, to the question "Why did you shoot at the enemy? Why didn't you leave that up to your soldiers exclusively?". There were cases where I had to act, cases that I could not turn over to the prisoners. I can prove that by the case of Kuschnir Kuschnarev, although I might choose other examples. I chose the Kuschnarev case because the facts in this case have already been testified to by the Prosecution witness Kogon. The powerful position that Kuschnarev occupied and his connections with the Gestapo and SS, which extended as far up as the RSHA, I have already described. The committee of political prisoners was persuaded that Kuschnarev's activities were meeting with success. He did his business perfectly openly. For more than a year his death had been decided upon, but no one dared to carry out the sentence, because Kuschnir Kuschnarev lived in a room which was guarded by the SS. Prisoners could have been found who would have sacrificed their

own lives in order to kill Kuschnir Kuschnarev, but that would have had evil consequences also. That would have led to an action against the political German and foreign prisoners and the Jewish prisoners. Kuschnarev's anti-Semitism was greater than that even of the camp administration, the SS. The number of Jews that he had executed on false charges runs into the hundreds. Consequently, it was only with my assistance that killing him was possible, and this was a case where only I could do the killing. I also knew in this case that I had to risk all. Everyone who approached the Kuschnarev problem was risking his life, but, of course, I had the best chances of success. The most prominent members of the prisoner committee were present when I told them of my decision to carry out this killing and, though I knew that killing was the only possible solution, it was very difficult for me to do so. I alleged that Kuschnarev died of typhoid. There are terrible notions that even today a person shies away from - namely, the situation in the Camp Buchenwald at that time. He knows of them only if he sees them not from the periphery of the camp, but personally experiences them himself.

Q How did you reconcile these acts with your position as a doctor?

A These acts have nothing at all to do with my position as a doctor. I should have acted in exactly the same way if I had not been a doctor. My struggle was against the conditions that prevailed, and my position in this fight was prescribed for me once I had put myself on the side of the prisoners. To the committee there belonged, among others, men of the same profession as mine, who would have acted in the same way as I did and had to act in the same way.

Q Kogon said, on page 1209 of the English transcript, and I quote:

"If it was a case of saving political prisoners who were in danger of their lives by withdrawing them from the political department, then Dr. Hoven was always ready to give his signature for such an action

once the suggestion was made to him."

Is that correct?

A Yes, but it is not complete. I did not pay any attention to what category the prisoner I was to save fell under. It was enough for me that he was no traitor or informer. Therefore, since I could not know each prisoner personally, it was sufficient for me if he was proposed by the agents of the illegal camp administration or the German or foreign political prisoners, because these agents were the deputies of the individual resistance groups in the camp. The classification as "green" or "red" or as Jew or Aryan was made by the SS, and for me it had no binding validity.

Q From what date on did you work with the illegal camp administration and the political committee?

A Shortly after I began my activities as second camp doctor at the beginning of 1941.

Q Kogon said the following in this matter:

"From the time when Dr. Hoven worked as the camp doctor he collaborated with the illegal camp administration.

Is that correct?

A Yes, but again it is not complete because, as I said, I didn't work only with the illegal camp administration, but also with the foreign prisoners and with the Jews.

Q Regarding the time at which the defendant worked in collaboration with the illegal camp administration, I draw your attention to Document No. 13, Exhibit 10. This is the affidavit by Philip Dirk. It can be seen that he was released on 20 March 1941, and he writes, under #7:

"My wife had learned in Holland that one could obtain a release through Dr. Hoven."

Please observe the date, 20 March 1941. This was before the war between Russia and Germany had begun. Even at that time Dr. Hoven was known in Holland as a person who saved prisoners in Bucherwald.

How did it happen that you collaborated with the illegal camp administration?

A The prisoners with whom I came into close contact, namely Walter Kraemer whom I have already named today - he was a former Reichstag Deputy - and other members of the illegal camp administration soon saw that I was different from my predecessors. From him and from foreign prisoners and the aforementioned four Jewish prisoners particularly I found out about the real conditions in the camp. This made such an impression on me that I allied myself with them.

Q Roemhild said, on page 1658 of the English transcript, that in November or December you saved a transport of about 400 political prisoners. Is that so, and who were these prisoners?

A That is so. These were prisoners who were to be killed within the framework of the Nacht und Nebel Action. In the case of the French prisoners, as usual, the most prominent prisoners were chosen for this action. In 1942 and 1943 the Dutch would all, without exception, be sent to Natzweiler which, toward the end of 1942, had become quite definitely an extermination camp. I found out that Natzweiler had this reputation at the end of 1942. I found out from Dutch and French prisoners who had come from Natzweiler to Buchenwald. There were two or three prisoners. To prevent these transports from leaving, I followed the same plan every time, a plan which worked. I was informed in good time how the transport was to be made up. The illegal camp administration told me this. Then I removed most of the prisoners from the transport and said that for one reason or another they were unfit for travel, being sick. Those in particular danger, namely those who had played a political role in their home countries, were designated by me as convalescents or they were put in the hospital as patients or were used as skilled laborers in the Gustloff works.

Let me interpolate at this time that I was asked occasionally whether I only rescued prominent prisoners or whether I also rescued others. In the meantime it has become known what the situation was.

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But the reason why I made the acquaintance primarily of prominent prisoners - namely people who, in their private lives, occupied leading positions in their own countries - is that they were in particular danger.

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They were known to the Gestapo and the SS, and they were more persecuted than a prisoner who hadn't played any particular role in his own country. This was the reason why it was particularly these prisoners whose acquaintance I made, because they were in the greatest danger. My saving of these prisoners whom Rosenchild mentioned could only be done with the help of particularly reliable prisoners. This was Gottschalk in 1942 for the French and Schittenhelm, and a Jewish prisoner, August Cohn, one of the greatest altruists that Buchenwald ever saw. For the Dutch the Jan Robert and Henry Pieck, and I must emphasize that these two men endangered their lives daily in carrying on the activities that they did in 1943. Another transport of Dutch and French was to leave. It was prevented from leaving in the same way. There was likewise a large transport of Jewish prisoners. So far as the Dutch are concerned, all the prisoners were liberated by the American Army in 1945, with the exception of those who did not survive this action of 1942 and 1943. Since other prisoners were accommodated in Block 50 and in the Gustloff works, they were designated as essential and were never caught up in the Nacht und Nebel transports.

Q For what reasons did you help the prisoners? It has been said here that you had motives of corruption.

A That would have been an expensive affair for me to engage in, if I had had to pay with my life for any material advantages I was trying to acquire. These assertions are incorrect. I believe it was Dr. Kogen who made that statement here. I do not say that Kogen is deliberately lying, but for a person who is not on the inside - and Kogen was such a person because he was not a member of the illegal committee or illegal camp administration - as I say, for a person who is not on the inside it might appear that I was helping the prisoners for corrupt reasons. That however, was by no means the case. I derived advantages personally from the prisoners. Moreover, I had no need of help from them, because I had money in my own right, and did not need the prisoners help. All the people who were pointed out to me by the foreign

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committee and the illegal camp administration and whom I thought worthy of help, all these people I helped with no regard for what they had to offer, and fater all, what could a prisoner in a concentration camp offer. Most of them were without property, if they had formerly had property it had already been seized by the Gestapo. This was particularly true of the non-German prisoners. To be sure, in order to help the prisoners I had to bribe the Gestapo political department, the adjutant's office, the leading doctors in Berlin, and the offices of the RSHA. They assisted me, and in this way it was possible to help the prisoners, for example to obtain releases to prevent the execution of penalties, etc. according to the regulations it was forbidden to recommend any releases. In order to have the necessary funds for this bribing, I set up the illegal workshop in Block 46, and I set it up specifically in Block 46 because there was no danger that the workshop would be discovered. Moreover, I could use particularly endangered prisoners as workers in the workshop and thus protect them. It is of no importance, but, I would like to say it here that the suggestion that these illegal workshops be set up was not mine. The prisoners made the suggestion to me, and it was a good one. Not only did I not receive anything from the prisoners I helped, but I supported them for the first period after their release. I gave them clothing, shoes and food, and even provided for their relatives in some cases. This was however, only possible by my sending packages to my wife who sent them on under another name. Not only for prisoners who were released but also for prisoners in the camp itself, and their relatives, I sent clothing and shoes manufactured in the illegal workshops.

Q Kogen also said that the prisoners gave you presents, pictures, clothing etc., whatever you wanted, is that so?

A If Kogen is referring to the clothing manufactured in the illegal workshop that is correct, but they couldn't give them to me, because I was the director of these workshops, and I wouldn't bribe myself. No, I did not receive these things for my personal use, but as I said, I

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had them manufactured for the purpose of bribery in the interest of the prisoners themselves. I wouldn't be speaking of these unimportant matters now, I am not under indictment for that, but I would like to say I am able to say even today where I got my suits of clothes I wore in Buchenwald. They were made by Pool in London. Terkelsen made part of them. Lalong in Paris made some of them. Never in my life have I worn silk shirts, but I didn't have my shirts made in Buchenwald. I had enough of them. I got from a shop d'Auze. As I have said I came to Buchenwald with 8 suits of clothing. They were in very good condition, because as everyone knows English material is very good, and I gave them all away to prisoners, prisoners who had been released. If it were necessary I produce affidavits to show you.

Q Did you receive presents from the prisoners?

A Yes, it is true that I received presents from the prisoners, but these were only presents given me in gratitude, and of no particular value. A person who knows the setup in Buchenwald particularly my collaboration with the illegal camp administration and the committee of political prisoners, will understand that the prisoners made efforts to manifest their gratitude, and I could not have brought myself to refuse to accept such a present, because that would have hurt the donors feelings. These were such things as ashtrays, needlework, etc., and I again gave these presents to other people. I think during my time in Buchenwald I collected something like 180 ashtrays, but I have none of them left today. I gave them all away. It is true that Pieck painted my portrait, and also that of my family, but that has nothing to do with corruption. Pieck who was a member of the illegal camp administration, I helped before I knew what his profession was. Then Horn said the only way Pieck could be used was as a painter. Horn correctly stated that we couldn't even use him to keep the fever charts. Moreover Pieck painted in all his spare time with great pleasure. He had that privilege, and I believe that I did Pieck a favor as a painter, inasmuch as I gave him an opportunity to pursue his profession.

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Q.- On page 1204 of the English transcript Kogon called you primarily a man who liked to live a comfortable life; is that so?

A.- I don't know what could have given Kogon that opinion. Kogon cannot judge this because he never worked with me in the hospital. There can only be infounded rumors which small minds let loose in the world. Because I lived in foreign countries and lived two years in Paris, many people have concluded that I like to live a luxurious life because I have different opinions on matters than other people do. At any rate, this much is true, whatever I had the prisoners also had, at least my nurses did. I often ate with my nurses and now and then drank a glass of wine or brandy with them, but my activities for the prisoners meant that not one day of my life was safe. Because no one knew this, I do not understand why he made the statements that he did.

Q.- When did you learn about the real circumstances and conditions at Buchenwald?

A.- Right at the beginning of my activities. I have already said that through German, foreign, and Jewish prisoners, I was informed of the true conditions in the camp. It is perhaps well that I had no political persuasions, because in this way I was not attached to any one group in particular and could take the interests of all into consideration. It then became known that is what I thought.

At the beginning of my activities, as I have already said, Buchenwald was under the control of a certain category of habitual criminals and informers who were continuously in disharmony with the SS and Gestapo. It is not correct to believe that all the prisoners wearing the green triangle were habitual criminals. The majority of them had received previous penalties for minor crimes. Mostly they were skilled laborers, and that was one of the main reasons why Himmler, as chief of the German Police, started the habitual criminal actions, in order that he might have available a supply of skilled laborers. These prisoners were

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sharply differentiated from the group of habitual criminals who worked with the SS and were sharply opposed by them. They gave great support to me in my struggle against the professional criminals who were cooperating with the SS. I helped these men just the way I helped the political Germans and foreign prisoners. With the help of this specialized category of professional criminals, most of whom had committed crimes before Hitler's time and were locked up for it, the traitors and informers tried to exterminate the Germans and foreign political prisoners and also the Jews.

I assert that without this system of informers, the concentration camps would not have become what we later learned they were. They were those who gave the concentration camps their characteristic features. This I know from conversations with inmates, who were much more clever and intelligent than myself and who had much more experience in life than I had. They told me that scientists, judges, ministers, high state officials, priests, artists and authors, in short everyone who wore the red triangle and because some who wore the green triangle were in no way professional criminals they were forced to live in the company of persons whom every civilized state would have kept behind bars and isolated. This led to conditions in the camp which only a person who actually experienced them can correctly evaluate. Men who had been the back-bone of society and of the state in their countries, suddenly found themselves crowded together in narrow confinement surrounded by sadistic criminals, criminals who worked in collaboration with the most interior members of the SS, namely those concentration camp SS men, a selective selection from the Waffen SS, whom the Waffen SS itself had rejected. These political prisoners, to give them a collective name, in this state of terrible necessity for of their own laws in order to save themselves. The executive power was put in the hands of a few selected men with whom I again collaborated. To these alone must thanks

be given that the rule of the informers and traitors in Buchenwald was broken. Despite the fact that conditions in Buchenwald were still bad enough, nevertheless the political prisoners did succeed in saving the lives of thousands of valuable persons. In this murderous struggle between SS and informers on the one hand and the German and foreigner political prisoners on the other, the means according to which this fight was to be conducted were prescribed to the latter in advance, so to speak. In addition to this activity of the SS in using professional criminals, there was the system of Capos, block trustees, and foremen. I must point out an error which is associated with the word capo, which I noticed in the course of the examination. The opinion is apparently still prevalent that a Capo had to collaborate with the informers and the SS, but that is incorrect. The leader of a work commando was always called the Capo. The struggle of the illegal camp administration directed toward getting as many of their men into the position of Capo as possible; this could be done only if the SS did not know the orientation of this Capo. And the illegal camp management always endeavored to get these men appointed for the job of Capo. This was not always easy, because the Capo's power was considerable, and the SS, of course, wanted only the persons it approved of to occupy this position. Unfortunately, by the middle of 1942 most of the positions of Capo were occupied by these malicious professional criminals and informers but we finally succeeded in eliminating most of them. I know many Capos who did the most prodigious and amazing things for their comrades in order to alleviate their fate. Many belonged to the underground or illegal camp administration. If the Capos belonged to the above-mentioned category of professional criminals used by the SS in order systematically to exterminate the Jews and political prisoners, then their activities led in fact merely to the concentration camps becoming an extermination camp for political prisoners and Jews.

Q.- Who ordered the release of prisoners?

A.- The R.S.H.A.

Q.- What were the prerequisites for a prisoner's release from a concentration camp?

A.- Theoretically the following conditions had to be met: working had to have been well done, the orientation had to be National Socialist, conduct had to be good, but practically speaking it was almost impossible to be released from a concentration camp. I believe there was one amnesty otherwise it was almost impossible, although the submission of the conduct reports which the R.S.H.A. prescribed could have made release possible. The prisoner, after serving his sentence in prison, was sent to the concentration camp. It was prescribed that after a quarter of a year a conduct report was to be prepared by the camp commander. The Gestapo office that had sent in the prisoner ordered this conduct report to be prepared by the camp commander. He passed the order on to the head of the protective custody camp, who was to draw up this report on the basis of the prisoner's behavior, work, and accomplishments. For this, of course, it was necessary for him to make inquiries and he gave the subordinate office this job. The subordinate office was called a Rapportfuehrer -- the assistant administrative head of the protective custody camp -- he was a non-commissioned officer. This man in turn went to the so-called block leaders, who were members of the SS who had charge of one or two blocks in which the prisoners were housed. These block leaders turned to the block trustees. The block trustee was a prisoner. Thus it can be understood what enormous power the block trustee had in his hands. Then the information obtained by the block leader was to go back through the same channels to the assistant administrative head, then the administrator of the protective custody camp who was supposed to call the prisoners in and on the basis of this report and on previous reports he would form an opinion whether the pri-

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sonar should be released. That would have been the correct procedure, but of course it was never followed. This I know from personal experience; an altogether primitive thing was the reason for this. The administrative heads of the protective custody camps were altogether simple, primitive people and had an education so slight you would be surprised to hear it. In the camp of Buchenwald the administrative head of the protective camp had the rank of a Major, but in the Halber SS he would not have had the rank of a corporal. I know this because I was requested to appear by one of these administrative heads in the matter of one of these conduct reports and we talked it over. When the prisoner entered, he took up the documents beginning with the statement of why he had been sentenced to the concentration camp. His previous arrest was also listed there, and the reason for his confinement was a political one. These documents were read through and the sentences that the prisoner had already served for a long time. He then had an attack of rage, hit him and threw him out. The up-shot of this was that the prisoners were afraid to report so that their conduct reports could be gone over, depending on the administrative head's mood. The consequence was that the documents that he had not looked at for months and years, he took another look at and said, "This man is another political crook, an opponent of National Socialism", and so the prisoner who previously might have been in an easy condition suddenly found himself in the quarry. The final result was that it might cost him his life to turn up for one of these conduct examinations. That is the whole insight into these conduct reports.

THE PRESIDENT: The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 24 June 1947 at 0930 hours.)

Official Transcript of the American Military
Tribunal in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nuernberg, Germany,
on 24 June 1947, Justice Beals presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal I.
Military Tribunal I is now in session. God save the United States of
America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all
present in court.

THE MARSHAL: May it please Your Honor, all defendants are present
in the court.

THE PRESIDENT: The Secretary will note for the record the presence
of all the defendants in court.

DR. FLEMING: Mr. President, the Tribunal inquired yesterday how
long counsels would need for the further submission of its evidence.
It will last roughly three and one-half to four days until all the supple-
mentary material has been put in.

THE PRESIDENT: Very well, counsel.

MR. HARDY: Your Honor, my understanding is that the defendant
Pokorny will call three witnesses here.

THE PRESIDENT: Will counsel for the defendant Pokorny advise us
how many witnesses he will call.

DR. HOFFMAN (Counsel for the defendant Pokorny): Mr. President, it
is correct that I intend to call three witnesses.

MR. HARDY: How long does the defense counsel anticipate that the
testimony of the defendant Pokorny and the testimony of the three wit-
nesses will take?

DR. HOFFMAN: I believe two to two and one-half days.

THE PRESIDENT: Very well.

MR. HARDY: Then at this time we have another day for the defendant
Hoven, two and one-half days for the defendant Pokorny, and approximately
four days for supplemental evidence.

THE PRESIDENT: As in accordance with the statements of defense

counsel.

Counsel for the defendant may proceed.

DR. WALDEMAR HOVEN - Resumed

DIRECT EXAMINATION (Continued)

BY DR. GAWLIK (Counsel for the defendant Hoven):

Q. Witness, you described yesterday the prerequisites for prisoners' possible release from a concentration camp. Let me ask you how it was possible for you to bring about the release of prisoners.

A. Primarily with the assistance of falsified X-ray pictures and sick records, and then through falsified papers that went through the RSHA.

BY JUDGE SEERING:

Q. Just a moment. Witness, can you say at this time how many releases you were instrumental in bringing about from Buchenwald Concentration Camp as a result of that procedure?

A. Approximately 150. I cannot give you the exact number. It was rather more than less.

JUDGE SEERING: Thank you.

THE PRESIDENT: Proceed, counsel.

DR. GAWLIK: Mr. President, in substantiation of the defendant's statement regarding how releases were effectuated, I direct your attention to the document I had put in, in the Hoven Document 13, Exhibit No. 10, the affidavit by Philip Dirk, Baron van Pallandt van Eerde. Turn to page 46, No. 7, in which Dirk says: "I was released on his recommendation, although, in fact, I was not sick."

In further substantiation of these statements I put in Hoven Document No. 14. This will be Hoven Exhibit 12. This is an affidavit by van der Laan, page 49 to 52. Under No. 9 on page 50 it says: "It is extremely probable that these releases were only granted owing to the false particulars which Dr. W. Hoven had forwarded to the authorities in Berlin whose duty it was to grant these petitions for release."

Paragraph 10 states: "These acts by Dr. Waldemar Hoven rendered an

invaluable service to the large numbers of Dutch hostages."

Paragraph 11: "If these released hostages had been examined by another German doctor, the fraud would certainly have been discovered and the consequences for Dr. Waldemar Hoven would have been serious."

Then in Number 13 it describes the way in which he himself was released: "Dr. Waldemar Hoven visited me the same day and without making any examination whatever promised me that he would try to have my liberty restored to me. Later, an X-ray photograph of my thorax was taken and, as I myself saw, no irregularity whatever was found. About a week later I was released. This event could only have happened as a result of incorrect information given by Dr. Waldemar Hoven, who had perhaps sent an X-ray photograph of a patient suffering from tuberculosis of the lungs to Berlin."

BY DR. GAWLIK:

Q What was the quality of the medical care in the concentration camp Buchenwald while you were there? I put to you in this connection what Roemhild testified to, who stated that the hospital was always overcrowded and that the equipment in the hospital was most inadequate. This is page 1639 of the English transcript.

A That is incorrect. At my time, at any rate, the hospital was very well equipped, although the SS does not deserve credit for that. Without exaggeration, I can say that during the year 1941 to 43, we had more and better medicines and drugs than many civilian hospitals. When ordering medicines I always ordered thrice the necessary amount because our quota was always lower than what we asked for. At my time, at any rate, there was always enough medicine. Since I followed the same policy in the SS hospital I took a large amount of medicine that was not needed at all in the SS hospital and transferred it to the prisoners' hospital. We had the hospital enlarged and in an illegal fashion had beds brought in and showers built. With considerable difficulties I also brought it about that two additional hospital buildings were built. The number of convalescents, or out patients, which was 100 when I took over was raised by me to 600. In the individual barracks I put in so-called louse guards who had nothing to do but to see to it that the prisoners were deloused; also these men were to take any sick calls from his barracks and in this way I eliminated the black trusty from any interest in this matter. I have also told you that I used prisoners contrary to explicit orders. We had all the equipment and instruments necessary for surgery. The emergency ward was open day and night. Then, as I have already said, the Jewish station was opened up again and took care of ambulatory patients, moreover, if necessary I sent sick patients to Jena for specialized attention.

Q Mr. President, in substantiation of these statements I put in Document Seven No. 17, which will be Exhibit 13. This is an affidavit.

avit by Gerhard Schiedlausky, page 56. This is an excerpt from Prosecution Document No. NO-508, which was Exhibit 135, in Tribunal Four. This is an affidavit from 7 August 1945. Schiedlausky was the successor of Dr. Hoven and stated there: "My activities began in Buchenwald on or about 15-18 October 1943." Let me recall to the Court's attention that it was at this time that the witness was arrested by the Gestapo. "When I took over my office, the existing facilities for treatment in the inmates hospital were adequate to operate it." And in the last sentence: "In the hospital there were altogether 5 barracks available for taking in patients."

Roemhild has testified here that the inmates applied to you for treatment and instead they were killed. This is page 1639 of the English transcript. Is that so?

A That is entirely impossible because the patients were received by the prisoner nurses without exception, not by me. That alone shows why it can't be true.

Q I now put in Document Hoven No. 2. This will be Hoven Exhibit No. 14. This is Rudolf Gottschalk's affidavit, page 5. Please turn first to page 5. From April 1938 until August 1942 Gottschalk was a political prisoner in Buchenwald. From the end of 1938 on he was employed in the hospital. He was sick bay clerk, laboratory assistant, male nurse, and clerk and was thus in a position to know just about everything that was to be known about the hospital. He also saw the typhus experiments and says about the typhus experiments the following: "I declare that Dr. Hoven was in no way connected with the typhus experiments which were started and the first series carried out during the time of my Buchenwald stay. It was Dr. Ding who was solely responsible for the conduct and execution of these experiments. He once boasted to Hoven in my presence that not even the camp management was in a position to interfere with his plans as regards these experiments."

He further makes statements about the selection as follows: "Originally, the persons who were used for these experiments were selected by

the "political department" (Leclair, Serne and Frerichs)", and further "In my time Hoven could hardly be called responsible for the selection, however, the underground movement through the medium of Dr. Hoven tried to gain some influence over the selection and execution, in order to save political internees from being used as human guinea pigs by the SS. I myself was a member of the underground movement (Walter Kraemer, Karl Peik), and I am able to certify this from my own observations.

"I wish to state that only one transport was sent to the Bernburg gas chambers during the time of my stay in Buchenwald. The selection of these people and the compilation of lists were carried out by the 'political department' i.e. were made at the 'political department'".

Then he makes statements about preventing the transports: "The Bernburg deportation list did not only bear the names of Jews but also those of habitual criminals and political internees. It was a particularly hard blow to us political internees when we found out the names of several of our people who were also on the list. I mention the former Communist Landtag member Albert Kunz, who played a leading role in the underground movement, Erich Loch, who worked in the equipment storeroom and who made a special point of looking after the new arrivals, Rudi Stelzmann and many others whose names have slipped my mind. We political internees considered it our special duty to try everything in our power to save our comrades. We made use of Dr. Hoven as our camp physician. He brought us the list of the death candidates which showed us the intentions of the SS. Furthermore, Dr. Hoven told us that these political internees had been entered on the list at the instigation of Kuschnir-Kuschnarev."

Then he tells how these people were released from transport. On page 8, at the top he makes statements regarding cooperation between the witness and the illegal camp management: "Furthermore I wish to state that Dr. Hoven stood in closest cooperation to the underground

movement of which I was also a member under the leadership of Walter Kraemer and Karl Peik. After the violent death of Walter Kraemer and Karl Peik, Heinrich Weingaertner took over the leadership of the underground movement. At my instigation and with the full approval of Dr. Hoven, he was succeeded by Ernst Busse."

I put this to you to prove what a prominent role the defendant played in the resistance movement in Buchenwald.

The next paragraph discusses the saving of Poles and it is stated that he saved the life of Poles by making false statements as to the statement of health.

On page 9, Gottschalk talks about the medical care in the camp. He says: "Even though from a scientific point of view, Dr. Hoven did not exactly conform to our generally accepted idea of a physician, as a human being he tried his utmost to maintain the highest possible level with regard to sanitary conditions. In comparison with other camps, the sanitary conditions in Buchenwald were exemplary."

Then there are further statements about conditions in Buchenwald. On page 10, last paragraph, he makes statements regarding the defendant's attitude toward the Jews and says that contrary to orders of the SS camp management he treated Jewish patients.

Page 12 contains further statements regarding Hoven's cooperation with the illegal camp management. Here we find the name Dr. Horn for the Czechs and Pieck for the Dutch. This will also prove that the witnesses heard here, Dr. Horn and Pieck, had the necessary knowledge to make the statements that they did regarding the defendant's cooperation with the illegal camp management and the Committee of Political Prisoners.

As further document, I put in Fritz Rieckert's affidavit, Hoven Document 5. This will be Exhibit 15, page 18 to 22. Rieckert also, as you can see from page 18, is a former inmate of Buchenwald; from 26 September 1939 until 26 May 1945 he was a political prisoner. From 29 February 1940 until the liberation he worked in the camp hospital as prisoner clerk in the office. This shows that he has the necessary knowledge about the defendant's character and activities. On page 19 he makes statements about Dr. Horn, at the top of the page, and Pieck and says:

"I consider Horn and Pieck as absolutely credible persons. This knowledge is drawn from my being together with both of them for a duration of many years."

Then he talks about the defendant's activities in Block 46. He speaks of the sending of lice and says that:

"I know that Dr. Hoven had a shipment of lice exterminated because they were infected with spotted fever. At that time Dr. Hoven said to us prisoners, 'Now they have gone crazy.' At the same time Dr. Hoven expressed the apprehension that a typhus epidemic might break out as a consequence of such experiments."

Then he says what Hoven did when he went to Block 46 and tells about the illegal workshops, the shoemaker, the tailor, etc. He also says that it was Hoven's endeavor to accommodate endangered prisoners, particularly Jews, in Block 46. Jews were particularly safe in Block 46 because, as he says on page 19:

"The SS could enter Block 46 only with the permission of the camp doctor."

He then speaks, on page 20, of his cooperation with the illegal camp management:

"I know that Dr. Hoven collaborated in the closest way with the German Communist party section and other illegal groups inside the Buchenwald camp."

He also describes an actual incident:

"In a memorial service for Thaelmann and Breitscheidt the SS Camp

Command had carried out numerous arrests on account of the holding of this commemoration. During this investigation which was carried out by the SS Dr. Hoven had maintained a connection between the individual accused prisoners and had thus exposed himself to the serious danger of getting shot. In connection with Dr. Hoven's activities, Busse said to me and to some other prisoners of the hospital, 'Waldemar--' that means Hoven '---is crazy; you could almost think he was one of our men.'

Page 21, at the top he speaks of the defendant's cooperation with foreign prisoners:

"I know furthermore that Dr. Hoven also closely collaborated with Pieck and Dr. Horn. Pieck was the representative of the Dutch. Dr. Horn represented the interests of the Czech prisoners. After the liberation of the representatives of the Dutch Communist Party Pieck worked in the International Camp Committee."

He then goes on talking about Hoven's help to the prisoners:

"Furthermore, Dr. Hoven frequently sheltered in his hospital prisoners which were in danger, by providing a false diagnosis; especially he took in those who were supposed to be sent away, in order to save them by doing so."

Further down:

"It is known to me that Dr. Hoven prevented extermination transports; the details, however, I do not know exactly." He also speaks about saving Poles and others, page 21.

And he concludes his whole affidavit on page 22, the last sentence:

"Quite generally I can say that Dr. Hoven had done much to alleviate the prisoners' fate."

How long were you first camp doctor in Buchenwald?

A. June 1942 to 12 September 1943.

Q. In what way was your activity in Buchenwald brought to a conclusion?

A. I was arrested.

Q. Who arrested you?

A. Dr. Morgen.

Q. Who was Dr. Morgen.

A. He was a Gestapo agent who had Himmler's particular confidence, and on Himmler's orders was carrying out investigations in the camp to realize the plans that Himmler intended in the Buchenwald camp.

Q. How do you know this?

A. From conversations with Dr. Morgen.

Q. Precisely what program or plan Himmler was following in the camp, and what Dr. Morgen, the Gestapo agent, had to do with this program - this Dr. Morgen acting on Himmler's explicit orders - can be seen from Hoven Document 10 which will become Exhibit 16, page 36. This is an excerpt from a document put in in Case IV as Document NO 2331, it having received the exhibit number 517 in Case IV. This is an affidavit by Gerhard Wiebeck. He was an investigator of the Main Office of the SS Court and he says:

"The concentration camp organization was, according to my experience, a system that is a system intended for the mass extermination of human life, the terrorizing of groups of political opponents and for deterring purposes. In my opinion the mixing of the political prisoners with criminals served the purpose of preventing the political prisoners from starting any opposition whatsoever. The whole system was characterized by the absolute lack of any rights on the side of the prisoners, the behavior of the SS Fuehrer assigned to the concentration camps, and the secrecy surrounding the concentration camps. By far the largest number of all killings, especially the mass extermination of human life, the ill-treatments, the third degree interrogations, the giving up of people to hunger and starvation, the experiments and other things had been ordered by the highest government offices headed by Hitler and Himmler himself."

Did Morgen pursue this goal of Himmler in his investigations in Buchenwald?

A. Yes.

Q. Why were you arrested by Morgen?

A. There were two reasons for this, first, the factual reasons, and secondly, the reasons alleged by the Gestapo. The real reason was that it was generally suspected that I was working in collaboration with the prisoners, but the reason given for my arrest was that I had killed an SS-Hauptscharfuehrer who was involved in the Koch affair. I had nothing to do with this man Koehler, who was the man killed. Investigations were undertaken with the help of the criminal court clinic in Jena and it was proved without question that Koehler died a natural death. In the course of the investigations of this alleged murder Dr. Morgen hit on the idea, which was very humane for the Gestapo, to inject acid gastric juices from the dead man Koehler into the bodies of Russian prisoners. Since there were no reactions from this injection, because the man had not been poisoned, the prisoners did not die. Finally, when this did not avail him in his accusations of me, he accused me of being instrumental in Kuschnir-Kuschnarev's death and used two informers against me who were known as Jew slaughterers, namely, Freudemann and May.

Q. I understood you to say the following, witness. The real reason was the suspicion that you were opposing the goal that Morgen and Himmler were pursuing, namely, the extermination of the political prisoners. That's the reason, isn't it?

A. Yes.

Q. In support of this statement by the defendant I draw the Tribunal's attention to the affidavit put in by Reinhold Schittenhelm, Document No. 4, Exhibit No. 3, on page 16, where I ask you to look at the statements under No. 2:

"In the summer of 1943 a transport of Jews to Auschwitz was supposed to take place. As far as I remember, the number of Jews amounted to approximately eight hundred to one thousand. I do not know who ordered the transfer. The Jews were already assembled for roll call. It was the general topic of conversation in the camp that Dr. Hoven had prevented this transportation of Jews. I know this particularly from the Jewish

workmen who were laying the floor in the Gustloff Werk. Moreover, it was generally talked about in the camp that Dr. Hoven would soon be one of us because he had prevented the transportation of the Jews.

"Shortly after that Dr. Hoven was arrested by the Secret State Police in September 1943."

This man is a French citizen who was an inmate in Buchenwald.

What was the result of the investigation of you?

A. In September 1944 there was a trial before the highest SS police court. In the course of the trial it turned up that Koch accused me of cooperating with the prisoners. Then the trial was quashed for the time being so that a political trial could be instigated against me. All political trials had the same outcome. I was taken to Buchenwald as a prisoner where I stayed until the American Army liberated the camp. A few days previously I had been released and offered service in the Wehrmacht; the political developments permitted no further course.

Q. Where were you after your arrest?

A. I was taken to the Kreuznach prisoners camp.

Q. No, I mean after you were arrested by Gestapo agent Morgan?

A. I was under Gestapo arrest for one year. Then on 12 September 1944 I returned to Buchenwald as a prisoner.

Q. After your release from Gestapo arrest and from arrest in the concentration camp what were your activities then?

A. I went to the main dressing station in Weimar as a doctor until 11 April 1945.

Q. What happened then?

A. On this day I went to visit the former prisoners whom I had known five kilometers from the camp. I was captured by the Americans. I was put on a tank. The prisoners, who were riding around with the American soldiers in jeeps, saw this and reported it in Buchenwald. Then the Jewish prisoner, August Cohn, came and spoke with the commander and received permission to take me back to Buchenwald. In the meantime the SS there had been arrested by the Americans. On Cohn's request and on the request of the foreign prisoners I was taken as a guest of the concentration camp to Block 50. Two days later I was separated from the SS and put in an officers barracks.

DR. GARDIN: Thank you. No further questions.

THE PRESIDENT: Are there any questions to be propounded to this witness by defense counsel?

DR. SERVATIUS: Servatius for Karl Brandt.

BY DR. SERVATIUS:

Q. Did you know Professor Brandt or did you see Professor Brandt in the camp?

A. I never saw Professor Brandt in Buchenwald nor before this trial and I seen him anywhere.

Q. Do you know from other sources whether he was ever in the camp?

A. I can only speak of the time when I was in Buchenwald until

until September 1943. I never heard at any time that he had been there, and in view of the position Professor Brandt had it seems unreasonable to assume he was there.

Q. I should like to ask you a question for my colleague whose client is Dr. Rose. Do you know that at the beginning of 1942 Dr. Rose visited the typhus station at Buchenwald being lead by a camp officer?

A. Yes.

Q. From what you know of the situation is it possible to find out during such a visit that the conditions prevailed in the camp such as you have here described?

A. No, that is not possible.

Q. On such a visit would not the hospital-like atmosphere in Block 46 lead one so visiting to come to the conclusion that everything was in order here?

A. I saw the hospital equipment in Block 46 only twice myself, but so far as I know the equipment there was perfectly in order.

DR. MERKEL: Merkel for Gonzken.

BY DR. MERKEL:

Q. Dr. Hoven, in your affidavit of 24 October 1946, Document No 429, Prosecution Exhibit 281, page 2, Document Book 12 you say inter alia that at the beginning of this typhus experiment Ding had lots of conversation with Gonzken in Berlin, and you say Gonzken was particularly interested in this matter and Ding sent him various reports. How do you know all this?

A. From Dr. Ding.

Q. You then are simply reiterating what Ding told you?

A. Yes. That is so and I said so during my interrogation.

Q. You are not here reporting facts of your own personal knowledge.

A. No, I didn't know Gonzken at all.

Q. In the same document you said that Gonzken in January 1943 ordered the experimental station to be enlarged, what do you mean by

"enlarged" ?

A. I wished to refer to Ding's sphere of activities which was to be enlarged and also the production plant for vaccines. That was what the order for enlargement referred to.

Q. Then Ding's sphere of activities was to be extended by setting up a production center for vaccines in Block 50?

A. Yes.

Q. It was then affiliated to the hygiene institute?

A. Yes, that is what I mean.

DR. HERMEL: Thank you. No further questions.

DR. FLEMING: Fleming for Krugowsky.

BY DR. FLEMING:

Q. Dr. Hoven, in your affidavit which was just mentioned, Document No-429, Exhibit 281, you said that the channels of command for Ding would have been "Grawitz, Genzkin, Krugowsky and Ding;" to what activities of Ding's were you referring to when you made this statement?

A. To his activities in Block 50. That is the only contact I had with him.

Q. What do you know about Ding's personal relations with Grawitz?

A. Ding was a friend of Grawitz. He always liked to make friends among such important people. I know that he once told me proudly, this was in 1942, that Grawitz, on the occasion of the birth of Ding's daughter, made his automobile available to Ding's wife. Then Grawitz had some book that dealt with his work in the Red Cross and he drew up a one page long dedication to Ding.

Q. While you were in Buchenwald how often did Professor Gildemeister visit there?

A. Four or five times.

Q. During the time you were in Buchenwald?

A. Yes.

DR. FLEMING: Thank you. No further questions.

THE PRESIDENT: Are there any further questions to the witness by defense counsel?

There being none the Prosecution may cross-examine.

CROSS-EXAMINATION

BY MR. HARVEY:

Q. Dr. Hoven, during the course of your time in the United States in the early 1920's you stated that you were an agricultural inspector would you be more specific and tell us just what you mean by that title?

A. Yes, I was on a dairy farm in New Jersey, the farm being owned by an acquaintance of my friend near Minneapolis, Minnesota.

Q. What were your duties as agricultural inspector?

A. I worked there.

Q. Did you have to make out reports?

A. No.

Q. Did you have to know the English language at all?

A. The owner had been a German immigrant and I spoke mostly German in the family.

Q. I see. Then you were actually merely a farm hand, you worked around the farm?

A. No, I was an inspector. I can only give you the expression that was used there, as I remember, namely I was called "boss".

Q. When were you drafted into the Waffen SS, Dr. Hoven?

A. 28 August 1939. That is when I received my drafting order.

Q. At that time were men being drafted into the Waffen SS direct, or was that your draft order for the Wehrmacht?

A. I was drafted directly into the Waffen SS. I think I received an order from the regional induction office. That was a printed form and at the top it says on such and such a date you are to report, etc.

Q. You didn't have any alternative? It is my understanding the draft into the Waffen SS didn't start until a much later date, that on

this date, August 1939, it was called selective service or whatever it is in Germany, had the alternative to go into various branches of the Luftwaffe; did you choose to go into the Waffen-SS, rather than the Luftwaffe or the Army or the Navy?

A. I would have preferred the Army and Navy to the Waffen SS, but this was a military order given in the same terms as the Wehrmacht orders. As I said, this came from the Regional Induction Office and I had no choice of any branch of the service.

Q. Now, Doctor, I want you to attempt to recall the interrogations of last October, wherein you and I drafted up this affidavit document, No. 429, which is at considerable issue here during the presentation of your case. Do you recall on the 22nd day of October, 1946 that you were called to an interrogation and at such interrogation Mr. DeVrie and I were present?

A. Yes, I remember. Shall I use the English document book here or the German?

Q. Yes, you might use the English, Dr. Hoven.

Now at that particular date, the 22nd October, 1946, you were asked if you could speak English; is that correct?

A. By you?

Q. Yes.

A. Yes, I said that I could more or less carry on a conversation.

Q. And then were you told that we would talk in English during that interrogation and if you did not understand anything just to let us know and we would try to clarify it in German?

A. It was not quite that way. You were good enough to ask me whether it would be alright if we talked in English, I said O.K., and tried to carry on some conversation in English. You then asked me a few questions which I answered in English, and then we broached questions which concerned my activities or matters which you wanted to know about. We both saw then that we could not continue in this

way and from then on we both made use of the services of the interpreter. From then on, I spoke a mixture of German and English.

Q. That is right, whenever you were confused I always had the interpreter explain it to you in German; did I not?

A. This was not an interpreter, it was Mr. DeVrie, who was an interrogator.

Q. Well, we were using him as an interpreter?

A. That is so, yes.

Q. Now, when the interrogation first began we ran over generally the activities and conditions at Buchenwald; did we not?

A. Yes.

Q. After having covered the conditions generally, did I not then inform you that I had drawn up a draft in the form of an affidavit and that I desired that we go through each section of the affidavit to determine its correctness and truthfulness and at the completion thereof, I would like to have you sign the affidavit for me; is that correct?

A. I can tell you that in much greater detail, Mr. Hardy.

Q. Just a moment, Doctor. I will read you the question as I put it to you at that time and see if that refreshes your recollection so that we can be brief here. After we had discussed the various details, I said to you; "I will go over this in detail with you. I want to get you to verify these facts for us. We will check these facts; that is in the form of an affidavit. I want to go over each section of the affidavit. If it is true, I would like to have you sign this affidavit for me." and you answered "Yes;" do you remember that?

A. Yes, but then you did not do that, you were called away.

Q. Just a moment. Doctor, I have the interrogation here, which will refresh your recollection.

Then, Doctor, I proceeded to go through various sections of the affidavit with you in person. I went through paragraph 1 of the affidavit pertaining to your biographical data and you answered specific questions there and you said to the first question, I read the first sentence of the affidavit:

"I, WALDEMAR HOVEN, being duly sworn, depose and state:

"1. I was born in Freiburg in Breisgau on the 10th of February 1903."

Your answer: "That is right."

I took up each sentence in that paragraph with you; did I not?

A. No.

Q. Is it going to be necessary for me to read each sentence?

A. No, we do not have to so burden the Tribunal's time. I can make perfectly clear what I am referring to Mr. Hardy. What you are now saying is that you twice interrogated me. Once you said that in regard to this affidavit I did not understand at the moment. At any rate, it was a summary. You said explicitly that Mr. DeVrie would go through it with you and by the next day it would be in order. That must be in the record.

Q. Let us go over it now by questions. I don't want to go over each point in rebuttal. I will go over in the full transcript of the interrogation which is found as rebuttal evidence in the Prosecution Document Book. At this time I want to refresh the memory of the defendant on certain incidents which happened during the interrogation.

THE PRESIDENT: Very well, proceed.

BY MR. HARDY:

Q. Now, you will recall, Doctor, that after I had discussed the first two paragraphs with you, I stated or reread paragraph 3, which is now the paragraph contained in Document NO-429; in that I said:

"Now, due to these various positions in Buchenwald during this period of four years that you were there, not quite four years, but nearly four years, you became acquainted with all the phases of the medical activities that went on at Buchenwald; now, therefore, you are able to make these statements?" Referring to the Draft, and you stated, "Yes."

Do you recall that I stated to you, "I want you to correct me when I read if the facts are not correct," and you answered, "I understand you."

A. You mean when you were reading the English?

Q. That is correct.

A. Yes and as I said I certainly over evaluated my knowledge of the English language in paragraph 6, I think...

Q. Just a moment, Doctor, we will get to paragraph 6. You did, did you not, when I told you you would have the opportunity to correct anything that I read that you thought would be incorrect; and I did tell you that in the interrogation; did I not?

A. That may be, yes, I don't remember it though. At any rate at that time I did not know who you were or what was going on. You were very friendly and gracious to me, but I really did not know what was cooking. I did not know this was an official thing of some sort, but when somebody is very friendly and nice to me, I also make in the form of a conversation statements which are not as exact as the statements one would make when making an affidavit. If I had known I was deposing an affidavit in this conversation

I certainly would have had it given to me in German translation and would have thought about it for a day. It is perfectly true that your personality made an enormous impression on me.

Q. You saved me a considerable amount of time, Doctor. I want to go now to the particular section of our interrogation wherein I asked you if you would assist in giving us information concerning the activities of which you had knowledge; do you remember that?

A. That could be, I of course cannot remember the details of the conversation that took place eight months ago.

Q. Well, you have stated here that you were not certain whether or not we were going to have a trial. Is that right? At the time of this interrogation?

A. I said that at that time?

Q. No, you said that here on the stand; isn't that correct?

A. Yes.

Q. Do you recall when I was later orally asking you to aid us in finding out facts concerning the activities at Buchenwald and I stated that we are going to have a trial; do you know that you answered, "Yes"? Then, I stated to you, there is no reason for holding you as a prisoner unless we have a trial; do you remember that?

A. I really did not get the impression I was to have anything to do with this trial; you were so extraordinarily polite and nice to me that you were really acting like my defense counsel and I did not think you were going to be the Prosecutor.

Q. Well, now Doctor, in this course of going over the affidavit, do you recall that we went over the affidavit

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do you recall that we went over the affidavit to the extent that I discussed with you the selection of inmates to be used in the experiments, not Mr. DeVries?

A. I certainly talked it over with Mr. DeVries, but I cannot remember that I did with you.

THE PRESIDENT: I think Mr. Hardy, we will take our recess now. The Tribunal will be in recess for a few moments.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, this morning when I was making an attempt to ascertain the duration of the defense, I apparently misunderstood just the length of time the defense case would take. Am I to understand that the case of Pokorny and his three witnesses will take two to two and half days, and in addition thereto, the defense counsel as a whole will require four additional days to put in their supplementary document books?

THE PRESIDENT: Is counsel's understanding correct concerning the case of defendant Pokorny?

DR. FLEMING: Yes, your Honor, the defense will need three and a half to four days to submit its supplementary documents.

MR. HARDY: Does the Tribunal intend to sit on Saturday of this week on the 4th of July, and on Saturday of next week?

THE PRESIDENT: The Tribunal will convene on Saturday of this week. Announcements concerning the end of next week will be made at some later date.

MR. HARDY: Thank you, your Honor.

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q.- Dr. Hoven, would you kindly turn to paragraph number 4 in your affidavit? Now, in your affidavit you will note in the last sentence of paragraph number 4 -- this is on page 2 of Document Book Number 12, Document NO-429 -- in that sentence the affidavit reads as follows: "From my association with Dr. Ding I understood that the chain of command in the supervision of the spotted fever experimental station was as follows: Reichsarzt-SS Grawitz, Genzken, Hrugowsky and Ding."

Now, do you recall that in the course of the interrogation I stated to you the following questions; one, "From your conversations with Ding you believed the chain of command was Genzken, Hrugowsky, and then Ding?"

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And your answer was, "And Grawitz." And then I said, "Yes, Grawitz. He came above both of them", and your answer "yes". And that occasions the reason why we put the chain of command in paragraph 4 to be Grawitz, Genzken, Mrugowsky and Ding; is that correct?

A.- Yes, as far as Block 50 is concerned, that is correct.

Q.- Doctor, would it be more convenient for you to follow me in English, or would you rather follow me in German through the interpreter during the course of this interrogation concerning the affidavit? Which ever you wish to do would be perfectly convenient for me.

A.- Do you mean right now?

Q.- Yes, if you would rather follow me in English you may do so, or if you would rather follow me in German through the interpreter, you may do that also.

A.- I have learned a lot during the seven months that I have been in this trial and listened to the examinations, but it would be rather catastrophic for me to speak in English. I don't understand that much. I prefer to speak in German.

Q.- Well now, in connection with the paragraph number 6, you have stated on direct examination that you took exception to the words "very friendly" at the time of the interrogation; is that correct?

A.- No, Mr. Hardy, that was when we read this paragraph, I said to Mr. de Vries, "Very friendly". I don't mean that. I mean for the "friendship of expediency" And then Mr. de Vries said something to you, and I didn't understand what he said, and then he told me, "That's the same thing. The meaning is the same." You were present at the time.

Q.- That's right, And when I proposed the sentence which is now in the affidavit, I proposed it in the following manner: "Inasmuch as you were constantly associated with Dr. Ding and your work in the medical field was of common interest, you became very friendly." Then we later struck out the proposal of mine, "That is, your work in the medical field

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was of common interest" And in answer to that you stated, "I got very friendly with Dr. Ding for a certain purpose in mind, namely, to protect certain prisoners who otherwise would have been shipped to a concentration camp at Auschwitz. Through friendship with Ding I managed to give a certain number of prisoners a position in the institute of Dr. Ding where they worked, and because of their work therefore could be declared vitally necessary." Now, isn't that the gist of what you meant by "very friendly"?

A.- You mentioned yourself at the beginning of your statement that I said that there was a purpose, and from that it is apparent that it was a friendship for a certain purpose, and that is what I meant, a friendship formed only for a certain purpose. If you mean it in that sense, it is correct, if you understand it.

Q By virtue of that friendship you were able to gain knowledge of some of his activities.

A On the basis of friendship formed for a certain purpose, yes.

Q Now, then, also at that time I asked you to write down the names of some of those inmates, that is three or four inmates, you wished to help and protect and you supplied me with the following names in answer to that you supplied me with the names: Henry Pieck, Jan Robert, Prof. Dr. van Minger, August Cohn, Fritz Kirchheimer, and you stated five other Jewish prisoners: is that correct?

A To what station is that referring to 46?

Q I am referring just in general to the entire situation. I asked you to write down some of the names of inmates whom you attempted to protect and you gave me those names, is that correct?

A Yes, I said that I know more but at the moment I couldn't remember their names.

Q That's correct. Well now we turn to the section in paragraph no. 6 where you state in the affidavit: "As a matter of fact, Dr. Ding had to go to Berlin for discussions with Dr. Brugowsky and others, nearly 3 days out of every two weeks, and on such occasions I was in charge of the Spotted Fever Institute. However, when Ding went to Berlin the experiments were discontinued until he returned." Now, isn't that substantially what you told me in the interrogation and didn't we check over this language in draft form of the affidavit at that time?

A Mr. Hardy, it was like that: When this was spoken I said, "Ding told me that way." It can be that he went to Berlin and used that as an excuse or he had a personal purpose in Berlin and had the ticket made out that way, for at that time only to get such a ticket one had to be on an official trip. Maybe it is that he stated he went to the Hygiene Institute and actually didn't go and I said expressly that is what Dr. Ding told me. That is correct. Then perhaps I assumed

not enough knowledge on your part as to the actual conditions. It was, as I already told you, in this typhus station in block 46, that I took part at the request of the prisoners in order to undertake the revision of the selection of the experimental subjects and that was my reason for doing so.

Q Well, you were, were you not, ordered or requested to supervise Block 46 at this time when Ding was in Berlin?

A No, Mr. Prosecutor, for this doesn't make any sense to put me in charge of the supervision since I did not understand anything about it. He had already given Kapo Dietzsch instructions and regarded 46 as his own domain.

Q Well, had you ever seen any of the experiments conducted in Block 46?

A No.

Q Now, Dr. Hoven, just a moment. Here in paragraph 7 I asked you or proposed to you the sentence which is therein contained at this time in Document NO-429, and is the first sentence "The experiments at Block 46 in the Buchenwald Concentration Camp were conducted as follows." And when I put the question to you, I said, "You know this from talking to Dr. Ding", and you answered "Sometimes I have seen them, too." You remember telling me that?

A No.

Q And this answer you gave when I asked you whether you know about the conduction of experiments in Block 46 from talking to Dr. Ding, you answered: "Some times I have seen them, too."

A What do you mean, whom do you mean I saw?

Q The experiments?

A I certainly didn't mean that. I couldn't have meant that at all because events in block 46 naturally were talked about among the prisoners and we had some information about this.

Q And you state that you did not say that to me during the interrogation. I will read the questions I put to you and answers you gave to me. The question is as follows. Referring to the rough draft of the affidavit we had, I quote: "The experiments in block 46 in Buchenwald concentration camp were conducted as follows: You know this from talking to Dr. Dinb?" You answered "Sometimes I have seen them, too." This meaning surely that you saw the experiments. Very clear, isn't it?

A No, I did not mean that.

Q You don't doubt that you said that, do you?

A Well I can't tell that anymore now but I only know I can't have meant it, I didn't see them.

Q Well let's go down to the section of paragraph 7 wherein you discuss the percentage of inmates who died in the course of the experiments. First of all, I stated to you, in a question which compares somewhat to the third sentence from the end of paragraph 7. I stated: "Between the autumn of 1942 and the summer of 1943 approximately 500 inmates of the Buchenwald concentration camp were used in these experiments." And when I proposed that sentence you stated: "That is a rough estimate." Consequently I struck out the word "approximately" and put in the word "about". Is that correct?

A Well, you see, Mr. Hardy, as far as it is concerned statements you yourself named the figure 500 at the time. I felt that the conversation with you was in the form of a conversation and when you mentioned this figure 500, I then assumed that you had more knowledge than I. And you can see that in my opinion it was really a leading question. When you named this figure to me and I let you influence me and I said "I have no information about it, but according to my entire knowledge of concentration camps, I assume that is correct."

Q Well, when you stated this "That is a rough estimate" -- didn't I strike out the word "approximate" and put in the word "about" -- is that correct?

A If you say so that must be correct. Of course, at the moment I can't recall exactly what happened.

Q Well, now concerning the last two sentences in paragraph 7 which refer to the percentage of deaths or the mortality rate, I asked you the following questions:

"How many of those died as a result of the experiments? How many would you say died of your own knowledge?" And you answered "I estimate for that particular period about 10% died as a result of the experiments but after 1943 a greater percentage died." And then I said "What percentage would you say?" And you answered "I heard from other sources, from inmates in the camp, that after 1943 the percentage of people who died as a result of the experiments amounted to 18 or 20%." Do you recall telling that to me?

A It may be but I got both figures from statements of prisoners and I recalled them approximately.

Q I see. Then the two sentences which are contained in paragraph no. 7 were not my idea, were they? They were given to me from my conversation, with you, is that correct?

A Yes, certainly, and I reproduced them from conversation with prisoners.

Q Now, in connection with paragraph no. 8 which refers to the selection of inmates to be used for the purpose of medical experiments in Block 46, did I understand you to state in direct examination here, yesterday, that you didn't have anything to do with the selection?

A I never denied that I had something to do with the selection. I only said that at the request of the prisoners I took part and told that to you, too. I had not had anything to do with that and I was expressly asked by the illegal camp administration and foreign prisoners to take a part in that. That is, to have my name as camp physician used for this revision of the selection because the revision of the selection was done by German political prisoners and foreign prisoners. I believe that is how you understood me but I assume then there were mistakes

made in the translation.

Q I was reading what you said to me, Doctor. I proposed the same paragraph which is now contained in Document NO-429. I read that same paragraph verbatim to you in the interrogation and after reading the paragraph you stated, "Yes", and then I read another section of the paragraph and you said, "Yes", and then I said to you, "What have you got to add to that?" After I had read the paragraphs to you I asked you what you had to add to that and you stated to me, "In selecting prisoners in Buchenwald for experiments to be carried out by Dr. Ding it was not officially necessary that I make such a selection or sign these lists. This meant Dr. Ding could have ordered Schober to make the necessary number of inmates available. However, I personally occupied myself with this selection, because I had been requested by the inmates to do so so that I did not desire the inmates become victims, since I tried to select those people who were stated to be criminals.

After I left Buchenwald the same system of selection was not maintained and inmates were made available to Dr. Ding, simply through Schober." And then I again referred to the paragraph and said, "This is basically true "and you said, yes", now is that what you want to be put in the record, that answer you gave me?

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A.- Yes, well, Mr. Hardy, at the moment I cannot tell any more, but what you have just read as to what I was supposed to have said is, in no connection at all with the actual contents of paragraph 8 as it reads now. It says on page 4 in the English text, for example, the words "at random" and the interpreter told me that meant "willkuerlich" in German and I believe that is a word I never used in my record. And you say that that is the meaning of what I said in my direct examination that I took a part in it, and if I used that word it doesn't mean that I did it, it means that I put my name under it. That was my affair and if it would have had any unpleasant consequences I would have had to bear them, because I said that I was responsible for the prisoners, for this action. The main object was to prevent that German political and foreign prisoners would be used for the experiments.

Q.- Now, Doctor, the persons used in the experiments - that is, the persons selected, whether they were removed later by you or otherwise, were they volunteers?

A.- I don't understand, Mr. Hardy. It's like this. The selection had already been made by the Gestapo or the camp administration.

Q.- Then the experimental subjects were not volunteers. I am trying to convey this question to you, Doctor. When these inmates were selected to be used in experiments in Block 46, were they volunteers in the sense that we mean volunteers as set forth as issue at this trial.

A.- Those who had been selected by the Gestapo and the camp administration, I don't believe that they were volunteers. However, it happened a few times that there were volunteers among them but I don't know for sure any more in which experiments. But these lists which the Gestapo and the camp administration selected, the revision was by the prisoners, by the trusted men of the German and foreign prisoners and they were revised in case there were German political prisoners or foreign prisoners on these lists, and thereupon these political prisoners were

taken out of the list, under some pretense be it that I said they were sick, for my hospital, or some other pretense, and then I or the prisoners put exclusively informers and traitors in their place, and these, of course, were not volunteers. Otherwise, I am of the opinion that prisoners anyhow cannot decide about volunteering as long as they are prisoners. It is only a conditionally voluntary action if they are prisoners.

Q.- Well, then, Dr. Hoven, if they had been volunteers for the experiments then it would not have been necessary for you to occupy yourself with the selection so that undeserving inmates would not become victims? Is that right?

A.- Yes, that's quite right.

Q.- Then, can't you positively state that the majority of these inmates were not volunteers? That they were forcefully being used in the experiments?

A.- Mr. Hardy, I did not concern myself with that in detail. I merely had the order, in agreement with the resistance groups of the German and foreign prisoners, as I have just reported it to you to take them out of the experiments. Of course, you are right, if they had been volunteers in these experiments, where I undertook this revision of the prisoners who had been selected, then there could not have been any volunteers, that is certain, but beyond that it is certainly correct, because probably in those experiments where they volunteered I would not have revised the lists. It is quite certain there were volunteers for some experiments, but I have already said I don't know for which ones or how many.

Q.- Well now, in the event that you saw fit to take the names of certain deserving political prisoners off the list so that they would not be subjected to the experiments, did you then select other people to take their place on the list?

A.- It is not correct, if you use the first person. I did not do it, but the prisoners did it, but I assumed the responsibility for the action. That is correct, - and they were exclusively informers or some who somehow were connected with the SS.

Q.- Well now, after you removed the name of a deserving inmate from the list and substituted it with the name of another inmate, - supposedly a criminal, an informer, or a traitor, - did that criminal, that informer, or that traitor volunteer for the experiment?

A.- No, certainly not. But we felt, since we could not prevent these experiments, this was still the best solution. It was impossible to prevent them, but at least we ameliorated it considerably and the matter was handled very carefully and thoroughly by trusted people of the German political and foreign prisoners.

Q.- Well now, in connection with the transports sent to a euthanasia station, which you later found out to be Bernburg, do you maintain now that only one transport left for Bernburg, as you stated in your affidavit?

A.- Yes.

Q.- On this transport were there ... How many people actually were on the transport? 200, 300, 400, 500, 600, or what?

A.- I cannot tell you the exact figure, Mr. Hardy. I believe it was three hundred and something. Jewish, as well as professional criminals and other prisoners. Originally, German political prisoners and foreigners had also been on the transport.

Q.- Well, was a special list made out of how many people should be on the transport at that time?

A.- I don't know. I don't know how it was handled. The physicians' commission had selected them. I heard Dr. Menneke was in charge of that.

Q.- Well, how many people did you save from this transport?

A.- Well, there were eleven prominent political prisoners, and then

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a number of others, also foreigners. I don't know the exact figure any more. It was quite a large number.

Q.- Well, when you saved a person from the transport - that is, struck their name from the list - did you have to insert or substitute another prisoner for the one that you saved?

A.- That was not up to me at all; I was not the chief camp physician, I told my chief to strike those people from the list and then he did not like this whole affair very much either; how it happened, what reasons he gave, I don't know any more. In any case, we admitted them into the hospital as patients, and whether other persons were put in their place, I don't know.

Q.- Were the other 300 or 400 Jews who actually went on the transport all infirmers, traitors, criminals?

A.- No, no; certainly not.

Q.- Well, was it impossible to save them?

A.- But, Mr. Hardy, I cooperated with the Jewish trusted people. 1200 were supposed to be sent away and we did everything that was humanly possible. The political, the Jewish and foreign prisoners, we all did everything that was within human power to do. As far as I remember, at the last moment I did succeed in having a Jewish nurse taken off the transport.

Q.- After the transports left for Bernburg then you received a list of the names of the Jews that were killed at Bernburg, didn't you?

A.- Yes, for my chief, and he again received it for the camp commandant.

Q.- And were you ordered to issue false statements of death, that is, fake death certificates?

A.- Yes, but I would not have had to accept officially. Thereupon, as in this entire action against the M-F-13 Action with the Jewish trusted people and foreign prisoners and German political prisoners I

got together with them and I told them that and the committee gave me the advice to leave that to me and for reasons I have already told yesterday, I did that. Nothing could be changed about it. Whether I or somebody else did it it was the same, only the manner in which I did it was more agreeable.

Q.- Well now, when you received the order to make out these death certificates you obeyed it, didn't you, and made out the fake death certificates, didn't you?

A.- I told you already that I myself did not make them out. The Jewish and German political prisoners did it, but I signed them for reasons I have just stated.

Q.- Very well, Doctor. Did you ever visit Bernburg?

A.- Yes.

Q.- For what purpose did you visit Bernburg?

A.- From an outside camp, I believe it was Wernigerode, we received the news that two prisoners had died a natural death; the City of Wernigerode did not have a crematorium. At that time, as far I remember, a camp physician had found out that these prisoners had died, and then they telephoned Buchenwald or wrote or sent a telegram, I can't remember any more. In any case, the fact was that two prisoners had died and they could not be buried. This could not be denied. Therefore I telephoned Berlin and asked what could be done about it and they looked over where the nearest crematorium was that could be reached and that was Bernburg. Therefore, I went there by car, talked to Dr. Ebel for about ten minutes, and he gave the permission and said that the corpses were to be sent there and they would burn them and then I went to this branch camp and informed them about it.

Q. Was your trip to Bernburg made before or after the first transport left?

A. April 1943.

Q. Thank you. Doctor, turning to the section of your affidavit which refers to the killing of inmates by phenol, I recall that you told the Tribunal that at the time that you executed the affidavit that you did not know what the word "traitors" meant, is that correct?

A. Yes.

Q. Do you recall the questions that I put to you which were as follows: "After you became second doctor, and through to the end, you became aware of the fact that there were many of the prisoners who were not liked by the other prisoners and were trying to benefit themselves, and that they tried everything in their power to become more powerful and to get better positions which would act to the detriment of the political prisoners who were in need; therefore you considered these prisoners to be traitors," and you answered, "Not me but all of them, all the unintelligent inmates." Then I asked, "These prisoners, Doctor, were considered traitors by the inmates?" and you answered, "Yes." "You and the inmates themselves considered them not worthy of life," and you answered, "Not only not worthy of life, but if they had continued to live they would have killed hundreds of people."

Now, isn't it evident from those questions and answers that you understood the meaning of the word "traitor"?

A. Judge Sebring asked me the words I did not understand in the English version and I told him.

Q. This was in English I asked you these questions and you answered in English.

A. I didn't understand what you just said.

Q. I asked you one question, "These prisoners were considered traitors, Doctor, by the inmates?" and you answered, "Yes." I asked you the question, "Therefore, you considered these prisoners to be traitors," and you answered, "Not only I but all of them, all of the

intelligent inmates." In other words, the intelligent inmates considered them to be traitors. Isn't it apparent from that question at that time you did understand the word "traitor"?

A. Well, I am not aware of that. At any rate I didn't know that word. Of course, in the course of time I learned it now, but you know this entire complex with these traitors and informers there and everything was so complicated that at the time I could not cope with it stylistically; you will note that yourself, that wasn't so simple.

Q. Now, when Dr. Ding came to assist you in the operating room one evening when you were administering phenol to three inmates, did Dr. Ding come in just by chance or did he come in at your invitation, or what was the reason for Ding's presence that evening?

A. I never invited him.

Q. He just happened to come in by chance?

A. No, we don't believe so, but we assume that he had been told about it somehow, that this happened and this was done in entire agreement with the illegal camp committee or with the foreign and German prisoners, and as far as I know he killed three. He didn't ask anything, strange as this may sound, and then after he had killed somebody himself he left again.

Q. Well, did he not interrupt you when you attempted to kill one of the inmates with a phenol injection and inform you you were not doing the job correctly, and take the needle away from you and show you how to perform the job, how it could be done more efficiently?

A. That was just a pretense, I think. At any rate he took the needle and performed the killing himself.

Q. Did he perform the killing more efficiently than you had done it?

A. I don't know that.

Q. How many men had you killed with phenol injections to that time?

A. Two.

Q. Had you killed many on other occasions or was this the first

occasion you killed people by phenol injections?

A. That was the first opportunity, the first necessity, where I myself had to take part.

Q. Now, how many inmates were killed by yourself?

A. Two.

Q. Well now, 60 inmates were killed by phenol injections?

A. About 50 to 60 were killed.

Q. Who killed the remainder?

A. They were killed by especially chosen prisoners who were trusted men of the illegal camp committee.

Q. Inasmuch as they were trusted men, you must remember who they were. You cannot have had more than two or three men whom you trusted that much or it would have become an open secret and that would be rather dangerous. Would you kindly tell us who those inmates were?

A. It wasn't an open secret, and my responsibility would not be decreased if I should mention the names, because this was the results of an individual terrible emergency only the people who lived through it can understand it, and the people who did it did it on the orders of the illegal camp committee, and they thought of nothing but saving the lives of their comrades, and I could not—

Q. Please tell me who the inmates were who performed these killings with phenol. Can you tell me that, please?

A. Who the prisoners were?

Q. Yes.

A. Kueschnir-Kueschnarev.

Q. I don't mean the prisoners killed, I mean the prisoners who performed the killings.

A. You just interrupted me; I just wanted to say so. I stated the reasons why I cannot tell you that, because then I would be no better than the traitors against whom I fought for years.

Q. Then you cannot tell this Tribunal who were the inmates who performed the killings by phenol with you?

A. I could say it, but I can't say it because then I myself would not be better than the traitors. I assume the responsibility for these killings, the 50 or 60 informers who died at the camp, since in agreement and urgent necessity of the emergency this was decided by the foreign and German illegal camp committees; they are not to be held responsible for this. I alone assume the responsibility for that.

Q. Did Dr. Dorn assist you, the Dr. Dorn who appeared here, who was in the hospital where the killings took place? Was he one of the men who assisted you?

A. No. I remember Dr. Dorn only because he gave blood; that is all the memory I have of him. I didn't know him very well.

Q. He was a male nurse in the hospital?

A. Yes, I believe. I had more than a hundred nurses.

Q. Was Dr. Horn, a Czech doctor, one of your assistants?

A. No, Dr. Horn was chief of the surgical department.

Q. Well, now would it have been necessary for the person who was administering this phenol by injection to have had some experience with the use of a hypodermic needle, or could just any person of the street without too much difficulty kill a person with a phenol injection?

A. I could not judge that, but in many cases one certainly must have some experience, but not experience in killing with phenol injections but with injections as such.

Q. Well, Doctor, your defense is that these killings in which you participated were justifiable. If they were justifiable in your opinion, why isn't it equally justifiable to tell who assisted you in killing these inmates, the political prisoners who assisted you?

A. That is not up to me to make the decision whether they were justified or not, since it is up to the Tribunal to decide about that. I myself have only the duty to describe things as they were and can only assure you it was such an unimaginable emergency and the prisoners had been crowded into such a small room that there was no further possibility. I can further tell you that, with the Minister of Justice, and

other high officials, ministers of justices of foreign countries, and about all these problems of the informers—

Q. Doctor, we have known that for a considerable time. You do not feel that you wish to incriminate or tend to incriminate anyone else in this, in regard to the prisoners who assisted you?

A. I didn't understand that this is incrimination. But I shall not state at that time the people who tried to improve this situation at this time, and save the lives of their comrades, today before a decision is being made about these acts today to give the names of these prisoners to the Tribunal. It may be they will receive high honors for it some time; I cannot decide about that at this moment. Therefore, I assume the responsibility for myself for the action.

Q Did Henry Pieck assist you in the course of these killings with phenol?

A No.

Q Did any of the witnesses that appeared before this Tribunal, who were inmates at the Buchenwald concentration camp, assist you in these killings with phenol?

A You include the witnesses for the Prosecution also?

Q Yes, any of the witnesses?

A I cannot recall that.

Q Did you ever receive orders from the Camp Commander Koch to perform killings?

A Once, but I did not do it because I could not. The order did not come from him, but it was an order from the Reichsfuehrer, as far as I can remember.

Q Well, now in the course of these killings you state that you killed two inmates and that the inmates themselves killed the others; who supplied the needles and the phenol?

A For which do you mean, Mr. Hardy?

Q For all the killings, on these 50 or 60 people that were killed with phenol; did you supply the material that was used on the inmates? You, as a doctor, had access to the drugs, etc.?

A Well, of course, the needles the prisoners had them available too. I said already that I assumed the responsibility for this. The prisoners did not receive them from me, they had them themselves and it had been discussed in the manner of a conspiracy or secret discussion. I also had the means for this at my disposal.

Q Now, when the camp commander gave you orders to give injections to prisoners or to have them killed in the way you described before the Tribunal; do you maintain that you took measures that the particular inmates who were to be killed were either taken out of the hospital, hidden some other place or were shipped to other camps so that the particular killings would not take place; is that how you

avoided carrying out the orders of Commander Koch?

A Oh, we did that in many different ways. There was a large number of prisoners and I cannot name them all.

Q Then you received orders to kill more than once from the camp commander?

A No, prisoners who had been threatened or who were in danger. I did not find that out directly, usually I found out from the trusted men and we saved them in the well-known manner by admitting them as patients or sending them to outside camps; that is how we saved them.

Q Didn't the camp commander ever check up at a later date to find out whether or not these killings actually had taken place, or was he negligent about that?

A I don't know; I cannot remember very well that exactly. In any case, the killings that you mentioned before I was not able to undertake them, -- who did, I don't recall any more today. At that time I was not so well informed about those matters, but I was advised by the illegal camp administration. They, of course, represented the interests of their comrades.

Q Now, after a person had been killed by the phenol injection; what kind of a death certificate did you make out?

A I left that up to the prisoners who were the trusted people of the illegal camp administration, that was a corporation, an organization, which took care of those matters itself.

Q Well now, you told me in the interrogation of 22 October, when I asked you what kind of death statements you mostly made out, you answered, "All kinds, quite often, inflammation of the lungs or heart attack"; is that right?

A Do you mean the kind of deaths on the informers who had been killed?

Q Yes, what kind of death statements did you make. You had to have death certificates for the record; did you make out a death certificate he had been killed with an injection of phenol; or that

he had died of inflammation of the lungs; or of a heart attack; or of tuberculosis; or was the death certificate a fraudulent one?

A Excuse me, Mr. Hardy, to whose death certificates are you referring to now?

Q To the ones you killed with phenol?

A That is the informers and traitors I am talking about.

Q Yes.

A These death certificates I did not make out personally, I just signed them.

Q Just a moment, Doctor, you have stated that approximately 50 or 60 persons were killed with phenol injection; of the 50 or 60 some were killed without your knowledge, but you were later notified...?

A No, Mr. Hardy, that is not how it was; do you now mean about the 150 to 90?

Q Yes.

A You mean the 90 cases?

Q Yes, the 90 cases?

A They were informers who were spontaneously killed by the prisoners in camp. I was told in one case that during the roll-call, the prisoners killed one of these informers by stamping on him with their feet. Of these killings, I found out afterwards and I had no influence on them. At the most, I could have denounced them to the superior authorities; the jurisdiction of the SS I considered as criminal, however, that has always been my opinion to this very day, and therefore, there was no chance of looking for help there. The result would have been merely that there would have been a big action against the foreign prisoners, German political prisoners and Jews and as a result in retribution for the death of 90 prisoners, thousands more would die.

Q We have gone through that many, many times; in summarization fifty or sixty prisoners were killed by phenol injections?

A Phenol or Evipan.

Q Approximately 90 were killed by beatings or other methods?

A Yes, or in any other manner. I don't know the manner in which individual cases were killed.

Q How did you learn of the 50 or 60 killed by phenol?

A With phenol or other drugs, is that what you mean?

Q Yes.

A That was through the resolution of the illegal camp committee. They.....

Q Just a moment, now, think a moment, slow down and try to answer my questions explicitly; how did you learn of that; were they all committed in your presence with phenol or the other drug injections?

A No, with my knowledge, my full agreement.

Q And they were performed in the camp hospital?

A Yes.

Q By yourself or by five inmates who assisted you?

A That was carried out by trusted men of the illegal camp committee and I had agreed to it and I covered up for them.

Q And how did you learn of the other 90 cases of death; did you learn that because you were the only person in whom the inmates had confidence and you were the person who had to make the official declarations of death?

A Both; it was quite clear, I had to make out the death certificates, the prisoners had filled them out, to be sure, I did not fill them out but only signed them.

Q How did you know whether or not each death was justifiable; you are assuming responsibility for a great number of deaths; how do you know that each and everyone was justifiable?

A I assume the responsibility for those 50 to 60 quite fully.

Q And you are certain in your own mind that each one was justifiable in the context that you put to us here?

A Yes.

Q Well, now Doctor, after we had our interrogation of 22 October and I had shown you a draft and I had gone through a considerable amount of this affidavit with you, then I left the interrogation and Mr. DeVries interrogated you further for a short time. Did I not return the next day with the affidavit written in a formal manner and asked you to read the affidavit?

A Yes.

Q And in fact I read the affidavit aloud to you?

A Yes, you read it aloud to me. I requested you to read a little more slowly and you did so, but then you were in a terrible rush, you got up several times and three or four times you handed me the fountain pen and I still tried to read it. I have to say, according to the truth, your personality impressed me. I did not know the true significance of this document and then I signed it, in the belief that what I meant was written or what I meant to say.

Q And the initials that appear on the affidavit are your initials?

A Yes, you told me to sign with my initials and that is what I did.

Q Did you ever write a note in English to Mr. DeVries after that interrogation of 23 October 1946?

A Yes.

Q You did in the English language?

A Yes.

Q Would you read that note to the Tribunal, which you wrote in English to Mr. DeVries on the 23rd in your own handwriting, kindly read it in English?

A At that time I had the support of a comrade, who was in prison here and who spoke English.

Q Is that your handwriting Doctor, on that note?

A Yes.

Q Is that your signature on the bottom thereof; would you

kindly read it aloud to the Tribunal?

THE PRESIDENT: What is the purpose of this, Mr. Hardy?

MR. HARDY: To indicate to the Tribunal the knowledge of English this witness had on the 23rd of October 1946. I wish to have him read it aloud, it is in his handwriting and we might have difficulty in reading it.

THE PRESIDENT: Very well, the witness may read it.

THE WITNESS: I told you I asked my comrades about many words that I did not know and they helped me in writing this, I did not write it from my own knowledge alone.

Q. Please read it for us in English?

A. "When I stayed three months in the concentration camp in Buchenwald, about March 1941, I wanted to ask for my release of the camp. As soon as the prisoners heard about it, they asked me not to leave them. I was the only one they trusted, and in fact, the only one who was acting for their benefit. They also wrote it at me in a secret letter which still has Mrs. Hoven. Therefore, I felt the responsibility not to leave them, but to help the prisoners as much as I was able to, and so I did.

"I don't want to trouble you with all the possibilities I had to help the prisoners from 1941 to 43 September, I have many witnesses therefore and many letters. But I want to tell you that on 11th of April, 1945, when I was taken prisoner by the Americans, 3 miles from Buchenwald, two hours after they liberated Buchenwald, the soldiers pulled me on a Sherman Panzer. As soon as the prisoners saw me, as Jewish prisoner, August Cohn, told the CO that I had been the only one who helped them always. So they brought me up to Buchenwald where I had my first interrogation. The prisoners told the American reporter that I always helped them and saved the life of the political prisoners of all nations who were in Buchenwald. Then I got the permission to stay as a guest of the prisoners in the concentration camp itself until the next day, when I became a prisoner of war, and was brought in a camp to Kreuznach. October 23, 1946"

Q. That is signed by you on October 23, 1946, and is written in the English language in your own handwriting, is that correct?

A. Yes, that is correct.

Q. At that time were you in solitary confinement in the prison? You were, weren't you?

A. Yes, I was in solitary confinement, of course, but I had work. I could wash dishes and clean out the halls. I believe I even asked the American soldier about a few words. You can see there are a lot of

erasures. I erased things and I inserted words.

Q. Do you have before you document NO.1063, which is the report containing the results of the investigations carried out in the Netherlands of the experiments and tests made by the German medical practitioners which contains the affidavits of Von der Ling, Lioven-
worden and Schalker?

JUDGE SEBRING: What book, Mr. Hardy?

MR. HARDY: It is not a document book, Your Honor. It is a single document, on page 12 of that document. Do the Interpreters have that document?

MR. HARDY: It is document No. 1063, copies have been distributed to the Interpreters. You should have copies available but if you don't I will go on to another subject and you can obtain them during the recess. Your Honors, in this connection the Prosecution requests instructions. Statements were made in this document by three affiants and the defense counsel requested that those affiants be interrogated. Thereupon, the Tribunal appointed a commissioner, Mr. Waltina, to proceed to Holland to interrogate the three witnesses referred to in this document. After proceeding to Holland he obtained depositions from the particular witnesses involved based on questions propounded by the defendants or defense counsel, to the questions propounded by the Prosecution. Therefore, the Prosecution does not feel that the answers gained as the result of the Commissioners while in Holland are subject to documentation and given a document and exhibit number. I have had them reproduced both in German and in English language for use here. Does the Tribunal rule we shall document them and give them exhibit numbers, or would the Tribunal take judicial notice of the hearing gained by the Tribunal's commissioner?

THE PRESIDENT: Submit the documents to the Tribunal.

MR. HARDY: I presume the Tribunal is familiar with the appointment of the Commissioner for this task.

JUDGE SEBRING: Was that a Commissioner appointed by the Tribunal to take testimony or depositions of these witnesses as defense witnesses or as prosecution witnesses?

MR. HARDY: Your Honor, as I recall the question came up when the Prosecution introduced this record of the Bureau of investigation for War Crimes in Amsterdam. In the record were affidavits which were apparently damaging to defense counsel. Defense counsel then requested that they be permitted to interrogate and be permitted to examine the witnesses involved, due to the fact the witnesses were in Holland, the Court appointed a Commission to proceed to Holland and at the same time gave permission to the Prosecution to propound interrogatories.

JUDGE SEBRING: On the Interrogations?

MR. HARDY: Yes, your Honors, and all interrogations and answers the sets are contained in that document that I have assembled to gether as given to me by the Commissioner, Mr. Waltina.

DR. GALLIK: Mr. President, I object to the submission of this document for the following reasons: This was a request which I made. Upon my application these witnesses were interrogated and therefore the document cannot be introduced here against my will and that is the first formal reason. Furthermore, for reasons of the material I object because I consider it necessary if these two witnesses who were not witnesses in this trial, but who were being merely here interrogated by this Dutch Commission, if the statement of these witnesses should be introduced here then I make application here for cross examination so that I may cross examine them here. That should not make any difficulties for the Prosecution. If I was able to produce a witness from Holland, it is much easier for the Prosecution. They only have to send a car to Holland and produce the witnesses here. In the manner in which it is done here I object to the submission of that document.

MR. HARDY: The Prosecution has no comments on the remarks of

counsel, Your Honor, inas much as the Prosecution deems they are unsound.

JUDGE SEBRING: Isn't the whole thing, if the statement of defense counsel is true, that certain affidavits or the results of an investigation were submitted to the Tribunal as a part of the Prosecution's case, then the defendant made application to the Tribunal for the production of the affiants in person for the purpose of cross examination. That application was denied by the Tribunal and in lieu of producing the affiants for croll examination the Tribunal appointed a commissioner to take their depositions as upon cross examination and thereupon the Prosecution, by leave of the Tribunal, also propounded counter interrogatories. The cross examination the report of the cross examination taken before the Commission is now back here for the use of Dr. Gwalik. You wanted an opportunity to cross examine those witnesses and you have been granted leave to cross examine them through the officers of a commission and it has been reported back. The report has been made by the Commission of the Tribunal to this Court and the question arises now whether or not a Commissioner appointed by this Tribunal, as a Tribunal official, to perform a certain function, who has performed that function and made his report to the Court, whether or not that report over the objection of counsel who originally asked leave to propound the cross interrogatories may be considered by the Tribunal,. Isn't that all there is to it?

MR. HARDY: That is my point, Your Honor. I want to know how to deal with it, whether or not it is now evidence before the Court or whether I have to produce it as evidence before the Tribunal. The Prosecution interprets it as evidence before the Court in as much as it is deposition taken by the Tribunal's Commissioner.

JUDGE SEBRING: Dr. Gwalik, I understand you have objected to the Tribunal considering this testimony or the report of the Commissioner because now the answers having been received on the cross interrogatories either you didn't deem them helpful to the cause of your client or you deemed them immaterial, is that the point?

DR. GALLIK: I consider them in the present form not of probative value because on the basis of the answers which the witnesses gave I consider for the clarification of the facts that further questions are necessary. Naturally, when I composed the questions, that is always difficult, I couldn't predict the answers of the witnesses, and naturally, of course, I could only put a certain number of questions. On the basis of the answers, I consider that further questions are necessary in order to clarify the facts and for that reason I am not submitting it because in this form I do not consider it to have probative value and I am of the opinion since they are questionnaires which were granted to me on my request they cannot be submitted by the Prosecution against my will.

JUDAH SEBRING: That is the point, doctor. Aren't you in precisely the same situation that you would be in the case of a witness being produced here in the witness box for direct examination by the Prosecution and then at the completion of such examination you would take the witness on cross examination, and then would say that because of the fact he has given answers on cross examination, that do not aid my case, I ask that the answers be stricken. Aren't you in that situation now? And if you are of the view on the other hand that the answers have no probative value, then, so far as your situation is concerned, you are not prejudiced by the court considering the testimony which has been brought back here on cross interrogatories taken by a commissioner who is an officer of this Tribunal, appointed for that very purpose.

MR. HADY: Your Honor, I don't think defense counsel is clear that this is now in evidence and is before the Tribunal and was before the Tribunal on the 9th of April 1947 when the Commissioner gave his report to the Tribunal. I think that is not clear to him, and those are the instructions I wish to have from the Tribunal so that I could continue my examination and use those as evidence obtained before the

Commissioner and already in evidence before this Tribunal.

DR. GALLIK: No, it is not in evidence. I still have it in my hands, your Honor. I still have the original. I want to ask the question of the Court if the witness should be summoned here for cross examination and I had put these questions to him, I would have been in a position to ask him further questions and then I would have been able to submit to him transcripts and documents which have already been submitted here and I am convinced on the basis of the evidence which has been submitted so far, the statements of witnesses and documents, and transcripts, the witness would have given different testimony. The statements of the two witnesses must be based on an error which as I now found out from these interrogations, cannot be clarified in writing and could only be clarified if the witness would be produced here for cross examination.

THE PRESIDENT: The Tribunal will now be in recess until 1:30 and will announce its ruling then.

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 24 June 47)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: In regard to the matter of the interrogatories under discussion before the noon recess, these interrogatories were propounded by defense counsel by way of cross examination of certain witnesses whose written statements were offered by the prosecution and received in evidence by the Tribunal. These interrogatories being, as I said, by way of cross examination - interrogatories and the answers thereto a part of the original statements or affidavits which were received in evidence and are therefore now admissible before the Tribunal over the objection on the part of defendants who propounded the interrogatories. The Tribunal would, however, in view of all the circumstances, direct that they simply be numbered and filed and received in evidence as documents in the case, of course subject to pertinent portions thereof which are deemed of importance being read in the record.

Defendants have a right, in view of this ruling, to apply to the Court to summon these witnesses before the Tribunal or to propound other written interrogatories to these witnesses if the answers may be taken and procured before the close of the evidence. An application is made to summon the witnesses the Tribunal will consider it, but it has not been the practice of the Tribunal to direct that witnesses from foreign countries be brought here, due to passport and other difficulties and also due to the lack of jurisdiction on the part of the Tribunal to require the presence of a witness residing in a foreign country. These questions and answers then will be filed as documents and may be received in evidence as a part of the exhibit which is already in evidence.

MR. GARDNER: Mr. President, I hereby apply that the witnesses --
Loe Varden and Johann Pieter Schacker be called as witnesses. But since this trial is approaching its end I make this application immediately.

THE PRESIDENT: Counsel must prepare the usual written application. It will be considered by the Tribunal and passed on promptly.

WALDEMAR HOVEN - Resumed

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q Dr. Hoven, did you at any time ever participate in the experiments at Block 46?

A No.

Q Do you contend that the testimony of Leuvarien is erroneous?

A That I cannot judge, whether it is erroneous or whether it is perjury. I think there is confusion, that he has confused me with someone else here, because it is perfectly clear that if this is an experiment involving 120 persons it would be stated in the diary, therefore it is clear that I did not carry out the experiment. I don't understand anything about it and I never carried out experiments.

Q Leuvarien, however, says that you injected him. Do you deny that?

A Repeat your question please?

Q Leuvarien, however, states that you injected him in the course of an experiment at Block 46.

A That is impossible, because I never did that.

Q Did you ever witness the execution of Russian commissars by shooting?

A Once.

Q When was that?

A I can't tell you the exact date. I was sent there on orders of the illegal camp management and the foreign political prisoners committee to observe the activity of Kushnareff.

Q How many Russian commissars were killed on that occasion?

A I cannot tell you that because I left almost immediately because it turned my stomach.

Q Who else was there?

A Members of the Kommandantur staff. How many there were and who I cannot say.

Q When did this happen?

A I can't tell you the date.

Q Where did it happen?

A In a so-called stable.

Q Who did the killing?

A Members of the Kommandantur staff.

Q What medical officer was present other than you?

A I cannot tell you whether my boss was present or not.

Q Who pronounced them dead?

A I told you, right after it started I left, because the sight turned my stomach. I therefore did not carry out any medical activities there.

Q Who ordered the execution?

A I assume that Himmler did, the Gestapo.

Q How do you know that?

A I don't know it. I just said I assume that.

Q Dr. Hoven, at any occasion during the course of your time at the Buchenwald concentration camp, did you request that a prisoner's head be placed on your desk?

A No, never.

Q.- Never did that?

A.- No.

Q.- You know a man named Josef Ackermann?

A.- Yes.

Q.- Who was Josef Ackermann?

A.- A political prisoner. I don't know what party he belonged to. I accommodated him in the pathological department. He was one of the prisoners who did not take an active part in the fight against the SS but who was being helped by me, the illegal camp management, and the political prisoners committee. He was to be sent away on a transport several times. The illegal camp management wanted him rescued and I helped do so.

Q.- Did you ever point out an inmate walking across the camp yard to Ackermann and tell him that you wanted that man killed?

A.- No, never.

Q.- Let us look at Document NO-2631. This will be offered as Prosecution Exhibit 522 for identification, your Honor, This is an affidavit by Josef Ackermann. I want you to turn to paragraph No. 2 and in paragraph No. 2 we go down to the 4th sentence beginning with the words "During the last years..." and the affidavit reads as follows. I quote: "During the last years my superior was the camp physician Dr. Waldemar Hoven. Every corpse of a prisoner was brought into the mortuary of the pathological section. I had also to compose the so-called post-mortem findings on these prisoners who were shot on escape, which findings were distributed in numerous copies, among others also to the SS-Court in Dusseldorf."

Now we will turn to the next page - page 3 and on page 3 of the English, we will find on page 2 of the German - the last sentence on page 2 of the German, which is the sentence beginning just about the middle of page 3 of the English, above the words in parentheses (page 3 of original) the sentence beginning "Dr. Hoven stood once..." Do you

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have that?

A.- Yes.

Q.- And I quote therefrom: Dr. Hoven stood once together with me at the window of the pathological section and pointed to a prisoner, not known to me who crossed the place where the roll calls were held. Dr. Hoven told me: I want to see the skull of this prisoner on my writing desk until tomorrow evening. The prisoner was ordered to report to the medical section, after the physician had noted down the number of the prisoner. The corpse was delivered on the same day to the dissection room. The post-mortem examination showed that the prisoner had been killed by injections. The skull was prepared as ordered and delivered to Dr. Hoven."

Do you know anything about that doctor?

A.- This is the biggest lie I ever saw in my whole life.

Q.- You don't know anything about that?

A.- First of all, Mr. Hardy, there was never a skull on my desk. I never interested myself in the pathological section. There was a doctor there from Berlin by the name of Miller, and before him a Dr. Love. Moreover I only visited once the pathological section. Ackermann usually stood at the door, used to greet me, and thank me for saving political prisoners and such things. But, never in my life did I have a prisoner killed and acquire his skull. I wasn't interested in skulls. This is an unmistakable lie.

Q.- In the Buchenwald Concentration Camp were prisoners beaten, that is, given lashes?

A.- Yes.

Q.- Was it necessary for a medical officer to approve the beating of a prisoner?

A.- There was an order to that effect, namely, that a doctor should be present and that the doctor should examine the prisoner before hand.

However, this order was never observed by my predecessors. I was the first doctor to require that the prisoners who were beaten should first be physically examined. Together with representatives of the political prisoners we did everything we could to suppress these penalties - these beatings. And the decision as to whether a man was in good enough condition to be beaten, was not reached by me but by prisoner nurses and the trustees of the illegal camp committee. We did everything we could to see to it that no foreign or German political prisoners were beaten. That was our greatest success.

Q.- Well then suppose a professional criminal was involved. Would you approve the beating of a political criminal?

A.- I was against these beatings but we couldn't change orders from Himmler. That was impossible. The only way you could help was to try to keep as many beatings as possible from taking place but if I had refused to be present or if I had simply asserted that no prisoners could be beaten, then I would have been replaced or penalized and the consequences of that would have been that all prisoners who were to be beaten would have been beaten and in that case there would have been no opportunity to help the prisoners.

Q.- Well, before a man was beaten or before approval was granted for him to be beaten, wasn't it necessary that the flogging be approved by the medical officer?

A.- I just told you that was not done before my time. I was the first to introduce that - the prisoners told me such an order did exist and I went myself to the SS and insisted that we should be allowed to see the prisoners before they were beaten and to be sure that the interests of the prisoners were being represented the illegal camp arrangement sent its representatives to me. They made the selection, saw to it that the prisoners were sent to the hospital, etc.

Q.- All here is a document. It is Document NO-2313, your Honor,

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which I offer as Prosecution Exhibit 523 for identification, which apparently, Dr. Hoven is the slip necessary to be filled out and the approvals marked thereon before a prisoner can be beaten. Now, I want to pass this up to you and see if you can identify on the reverse side the signature of the medical hauptsturmfuehrer. Whose name is that there?

A.- Dr. Plaza.

Q.- How do you spell that?

A.- P-l-a-z-a.

Q.- Was he your assistant, at that time?

A.- He was a camp doctor. Yes.

Q.- Well, was he your assistant?

A.- I can't say assistant. He was a camp doctor. He was subordinate to me.

Q.- Yes. Well now you turn to the front page and you will notice this person was a Polish worker, considered a shirker and he left his labor squad without permission and was found later smoking in a hall. And that on page 3 of the translation, your Honor, we note that before any prisoner can be punished the medical opinion must be given and in this case Dr. Plaza has stated, quoting from the document: "The culprit, named on the reverse side, was medically examined by me before the execution of the flogging. I do not have any objections against the application of flogging from the medical point of view."

And then the other statement is "I, as a physician, either raise objections against the flogging - and gives the reason, or does not raise and crosses out the word "raise". Well, was that the usual procedure in every case of flogging?

A.- This what I first insisted on - that prisoners be brought before me. Previously the practice was that the orders came from Berlin and the man was flogged. The medical certificate was just read, was

never previously paid any attention to. This certificate went to Berlin and came back signed and the prisoner was flogged and then after he was flogged it was put to my predecessor then his doctor and signed post facto and I was the first one to object to that procedure.

Q.- How many of such floggings did you sign? Did you sign many each week and allow floggings to go on because the person was physically able to endure the flogging?

A.- Mr. Hardy, I didn't judge according to the state of health of a person. I didn't really examine him at all. What we did was everything we could whether healthy or not. We were fundamentally against the practice of flogging and all political prisoners, including the foreigners, were saved by us so far as possible from the flogging. I can't give you the exact percentage any more but I know we did save some. It wasn't all. If I would have tried to save everyone I would have been fired and penalized and the prisoners would have had no recourse. If this man here was really flogged in September 1942 I can only explain it by the fact I wasn't present at that time and Plaza didn't consult me in the matter of medical examination for this prisoner. As I have already said I did whatever I could whenever I could, namely kept as many as possible from being flogged, making no difference, whether German or foreign.

Q. Would it make a difference if he was a political prisoner or a criminal prisoner?

A. Well, if he was an out-and-out informer whom we know of, then I had no objections - none at all - to the man's being flogged. He deserved it.

Q. Well, did you know the name of the man who was on that particular slip there? Kisiliczka?

A. No, I didn't know him.

Q. Did you know a man named Weidellok, Ernst W O I D E L L E K ?

A. No, I can't remember that I did know him.

Q. Was that man a notorious criminal in the camp?

A. Could you please spell the name again?

Q. W O I D E L L E K.

A. I can't remember the name, at the moment.

Q. Well, I note that you approved that he be given twenty-five lashes. He is a professional criminal. Because he tried to escape one day from a labor squad and did escape and was captured a few days later. And you approved that he be given twenty-five lashes. Now, that is Document NO 2312, which is marked Prosecution Exhibit 524 for identification. Now, on the reverse side of that document, is that your signature, Dr. Hoven?

A. Yes.

Q. Tell us about that case.

A. How can I do that. I don't know this case at all. I told you that I left this up to the agents and liaison men of the foreign and German prisoners and these men did whatever they could.

Q. Then you approved of beating a man - giving him twenty-five lashes - without having examined him yourself and then certified that you did find him physically fit to be flogged?

A. I told you that the nurses and these agents of the political resistance movements did this on my orders. That was much better than if I had done it myself because in the first place, these were all comrades and, secondly, they were actually more interested in this

than I was and, thirdly, they know their cases better than I did. If for instance ten blows were ordered and they managed to reduce it by six, then they did so. I couldn't take care of everything in the whole camp. It wasn't a Sunday school. But, it is also possible and this did happen, that prisoners who were caught while escaping were to be shot and then, through the work of the illegal resistance groups and through having connections with the administrative head of the protective custody camp, it was possible to commute that sentence to a flogging and I can tell you that the prisoner was very glad for the commutation. Moreover, we had an illegal treasury from which various officials were bribed.

THE PRESIDENT: Will the Counsel pass to the Tribunal the original of Prosecution Identification Exhibit 523?

MR. HARDY: I am handing up for the Judges' perusal also, Exhibit 524.

BY JUDGE SEBRING:

Q. Witness, I shall have handed to you Document # NO 2313, which has been marked for identification as Prosecution Rebuttal Exhibit 523, and I direct your attention to the fact that on the front side of the document, at the top, are certain pencil notes. Will you please examine these notes and state, if you know, in whose handwriting they appear and state, if you can read the note, what the note says?

A. I can try to explain it, Your Honors, although I cannot say for certain. I assume that this is "III" which is at the top in the middle - I think that must mean "Department III". That was the administrative head of the protective custody camp. His office.

Q. Who was in charge of that office?

A. That was the first administrative head of the protective custody camp. At this time that was I think Sturmbannfuhrer Schobert - S C H O B E R T.

Q. Well then, I direct your attention to the handwritten note which appears on the front of that instrument, to the left of the red

pencilled markings "III", and ask you, if you will read that.

A. I can see only the numbers "17-9-42".

Q. Would that not indicate to you 17 September 1942?

A. Yes, that's the way I should construe that.

Q. Now, what else is in that pencil notation?

A. There is a German Gothic script "V". Then there is a German "R" and an "S" in Gothic script, and a "B" and an "L".

Q. Can you say what that stands for?

A. No, Your Honors, I do not know what that means.

Q. On the English translation of that document which has been supplied to the Tribunal, at the head of the document, appears the words "died - D I E D - 17 September 1942". Does anything of that sort appear on the front page at the top of that document?

A. So far as I can read here, I see, as I say, a small "v" and a small "r" and a small "s". Then a capital "B" and an "L". That's all I see.

Q. Very well, thank you.

Mr. Hardy

WITNESS (Interrupting) All of these letters are in Gothic script.

JUDGE SEBRING: Mr. Hardy, I direct your attention to the English translation of Document NO 2313.

MR. HARDY: Yes, Your Honor.

JUDGE SEBRING: Do you note, at the top, the words "Died 17 September 1942"?

MR. HARDY: Yes, Your Honor.

JUDGE SEBRING: Where did that come from?

MR. HARDY: I imagine it came from the certificate of translation - the translator, Frank W. Young. I was about to take issue on the point before you took it up with the defendant. Due to the explanations now, it won't be necessary for me to do so.

JUDGE SEBRING: Take issue with whom?

MR. HARDY: With the defendant on the notation.

Can I ask the interpreters to make an attempt to decipher the German words on the top of this document?

THE PRESIDENT: You may.

MR. HARDY: There's a handwritten notation.

INTERPRETER: These could be the letters "v r s t r b" with a period which would be a possible abbreviation for the German word "verstorben" which means died.

Q.- Do you know whether or not this prisoner Kisiliczka died after these beatings, Doctor?

A.- No, I don't know the name. I only know that there was strict prohibition for the prisoners, provision against the prisoners being allowed to be taken into the hospital after the beatings. However, I always did so myself.

Q.- How severe were the beatings?

A.- What do you mean by severe?

Q.- Well, could ten lashes be sufficient to contribute to the cause of death of one of these inmates?

A.- I shouldn't think so.

Q.- How about twenty-five?

A.- That I cannot tell you. I have already told you all I know about this.

Q.- Did they get hospital treatment after twenty-five lashes?

A.- That was forbidden. But whenever I personally could I did take the prisoners into the hospital, if they needed care. That is a well known fact.

Q.- Did a person usually get care after twenty-five lashes?

A.- Certainly.

Q.- What did you have to do, Doctor, with the construction of Block 50, did you have anything to do with that?

A.- Yes, I was the deputy in Block 50.

Q.- Did you have anything to do with the construction?

A.- I was imprisoned before then, but I recruited all the workers there, including foreign scientists, and all the prisoners who were in danger. I didn't go to Block 50 on my own initiative, but on the explicit wishes of the political resistance camp management.

Q.- Did you conduct the business necessary for the construction and furnishing of equipment for Block 50?

A.- No, the SS camp administration did that, but the rooms in Block 50 were excellent. They were fixed up with illegal work shops, and so forth, but that is very difficult to explain now. All the groups worked hand in hand with each other.

Q.- Did you ever have any dealings with, for instance, the Chief of the Construction Bureau of the Waffen-SS and police concerning the building of Block 50?

A.- Most of the time Dr. Ding was there, but I was his deputy, for the reason I have already given you, namely I took the job for the sake of the illegal camp management and the resistance movements. The important thing was that we should safeguard the prisoners and that was my point of view, and that was why I was there.

Q.- I have a document here which is Document NO-1944, which is offered as Prosecution Exhibit 125 for identification; you will note here in this document several letters dealing with the equipment used in Block 50 and the furnishings of Block 50, and the general construction of Block 50, and in most instances it is referred to you. We note on page 3 that the letter is addressed to you; on page 4 you were mentioned in that letter; now, just what was your capacity concerning the construction of Block 50, and the equipping or the furnishing of it?

A.- I have already told you I was the deputy. I usually left this up to the prisoners there, busying myself with it personally as little as possible.

Q.- The prisoners weren't building Block 50, were they, that was on orders from Berlin that the SS build it? Do you mean the prisoners were engaged in the construction of Block 50 and in the production of typhus vaccine and not the hygienists of the SS?

A.- You misunderstood me, Mr. Hardy, let me tell you that I have made efforts to be Ding's deputy in Block 50 in order to be able to help the illegal camp management. The reason for this was to save endangered

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prisoners and prominent foreign politicians by taking them to Block 50 as workers. That this was done you know. That if in the course of this work I did some administrative work that is quite understandable. I was advised in all this by the prisoners. We received suggestions. There was the Jewish engineer who was mentioned already several times, Max Hochster. I let him take care of this, because I knew much too little about it.

Q.- You have Document NO-265, the Ding diary before you, Dr. Hoven?

A.- What page?

Q.- This will be page 39 of the English under the date 17 March 1942, concerning the visit of Professor Rose and Professor Gildemeister to Buchenwald?

A.- I have it. I have it.

Q.- Now, we note that in that entry that Dr. Ding was sick with spotted fever and was in the hospital in Berlin, is that correct?

A.- That is what it says here.

Q.- Who conducted Professor Gildemeister and Professor Rose around during their visit?

A.- I didn't. I assume it was one of our doctors, I didn't do it simply because I could give these gentlemen no information about what they wanted to know, because I understood nothing about it. As a doctor I didn't want to lay myself open in that way. My professional reputation would have suffered. My reason was only this, so I assume some other doctor took them around. Professor Gildemeister came around several times.

Q.- Well, now, the entry just above that indicates that persons were infected with virus and that an experimental series was in progress on the 3rd of March, and it says: "I didn't see the results of that first experimental series until 19 March." Now, when Dr. Ding was in the hospital at Berlin, the entry 17 March states that you were the supervisor during his absence; now, isn't it true from those entries that these

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experiments were underway while you were in a position of supervisor during the absence of Dr. Ding?

A.- No, he had already indoctrinated his people, particularly the capo Dietzsch. I didn't know anything about this, consequently I could not make the arrangements, and Ding, of course, knew that.

Q.- Were you present on the occasion that the inmates were infected with lice, that is the day the lice in the cages were tied to the thighs of the inmates in Block 46, so as to infect them with the lice of the second shipment; did you see that infection?

A.- I was told this when I was in the hospital.

Q.- Kindly answer my question, did you see the infection, did you see the men sitting or standing or whatever position they were in with a cage strapped to their thighs with lice therein, and thereby causing infection, did you see that?

A.- They were sitting on chairs with cages strapped to their thighs and I saw it. I was there. I was smuggled there in order to save the political prisoner who was among the experimental subjects.

Q.- Now, were you indicted by the SS Police Court after your arrest?

A.- Yes.

Q.- Were you served with an indictment?

A.- I was at the Gestapo and I received some sort of red slip of paper.

Q.- Were any charges ever read off to you?

A.- Not read to me, no. No charges were read to me. I told you once in the interrogation that I got this red slip of paper, and I have also told you what the ostensible reasons were that they had to put me on trial, namely the killing of the three --

Q.- Let's go to those other things first. You were arrested in September 1943, is that correct?

A.- 12 September.

Q.- Did you ever go to trial.

A.- Yes.

Q.- When?

A.- One year later.

Q.- When was your trial, on the 11st September?

A.- No, earlier, the beginning of September 1944.

Q.- And then you were sentenced as a result of that trial?

A No, I wasn't. The trial was squashed, they were going to put me on trial on political charges and then I was sent to Buchenwald as a prisoner.

Q Have you ever seen the results of your trial, that is the report written by the judges, I suppose; your trial that was held in September of 1944?

A I never saw it, but the reports that were written about a Gestapo and SS trial were written up in whatever way they pleased.

Q Who tried you; what court?

A The Highest SS and Police Court.

Q Who as the judge?

A I don't know his name.

Q You mentioned Konrad Morgen; what did Morgen have to do with it?

A He was the Prosecutor. That was a wonderful piece of co-operation they had in the SS, the pre-trial judge also became the Prosecutor.

Q Well, then, Dr. Morgen was the judge actually; wasn't he?

A No, he was the Prosecutor.

Q I have here a Document No. 2366, Dr. Hoven, that I want you to look at. This will be offered for identification. This, Your Honor, is a voluminous indictment in the case of SS Standartenfuehrer Koch vs. Dr. Hoven. I am only going to refer to a few excerpts from it. The reproduction of the German is rather difficult. I have only one copy for defense counsel, the photostat and the English excerpts will be very brief.

THE PRESIDENT: Counsel, what is the purpose, what is the evidentiary value of this document?

MR. HARDY: The document lists everything that Dr. Hoven did while he was at Buchenwald, as charged by the SS.

JUDGE SEBRING: Yes, but did not the man say he was acquitted and was not tried?

MR. HARDY: That is not what these records bear out, Your Honor. To accompany this, Dr. Hoven, I have another document No. 2380, which is offered as Prosecution Exhibit No. 536 for identification, No. 527, pardon me.

DR. GAWLIK: I object to this document, to document No. 2386. I question the probative value of this since it originates from the Gestapo, an organization which in the verdict of the I.M.T. was declared a criminal organization. The Prosecution would have to first prove that this organization and the report that was drawn up by the officers of this organization are credible persons who can be believed. It must also prove that no criminal goals were being pursued in this document and in this trial of Dr. Hoven. I have tried to show in the conduct of my defense that Hitler through the Gestapo was trying to exterminate the political prisoners in the concentration camps and everything that was opposed to this goal of his was combatted by Hitler and the Gestapo by every means at their disposal. That is the contents of this document and I cannot see what purpose the Prosecution is pursuing unless it is going to align the Gestapo on the side of the Prosecution. I see neither the purpose of the probative value of this document.

THE PRESIDENT: Of course an indictment itself is no proof of anything, but the proceedings which follow the indictment might be of probative value. In any event, the matter of probative value of any document present in evidence may be argued and will be finally determined by the Tribunal and if it has no probative value it will be disregarded.

DR. GAWLIK: But, this is an indictment, Your Honor, you have just said that the probative value must be decided by the Tribunal.

THE PRESIDENT: It may be part of some subsequent proceedings, which is not indicated, in any event it is not offered in evidence, but merely marked for identification.

JUDGE SEBRING: Mr. Hardy, is it your purpose to prove that

based upon their indictment this document is some final judgment of some court of jurisdiction?

MR. HARDY: The defendant stated that because of some inquiry on the part of Konrad Morgen, SS Judge and SS Hauptsturmfuhrer, he was then dismissed and sent to the concentration camp for political reasons. I don't see any indication of that in the report signed by Dr. Morgen, SS Judge of the reserve Morgen imposed on Koch and I want to have Dr. Hoven explain his statements as opposed to the statements contained in these documents and explain some of the reasons for the accusations made in these documents.

THE PRESIDENT: Counsel may proceed.

BY MR. HARDY:

Q Dr. Hoven, taking the voluminous photostatic copy of the alleged indictment; will you turn to page 51 of that report?

A There is no pagination in this document that I can see.

Q I think there is the pagination in the upper right hand corner.

A Oh, yes, I see, 51.

Q Yes, 51.

Now, you will note on page 51 the paragraph concerning your activities and in that paragraph is a statement: "Besides Hoven had a bad conscience because of the executions he directly imposed upon Koch for carrying them out;" what does the investigator mean by that statement?

A I have already told you that the Gestapo and Dr. Morgen carried in the indictment anything they wanted to. I was Koch's greatest opponent, that was known throughout Buchenwald. Koch hated me fervently because he could not prove anything regarding my political activities against the SS. For this reason he charged me with these killings, the killings of Freudemann and May I mentioned before who were known as Jew slaughters. Because I would not give him the names of the prisoners who had actually done the killings, he charged me with

it in the course of the proceedings against me in the pre-trial proceedings. I can give you the exact date for this, I shall always remember it, 28 December, 1943, after an air attack on Frankfurt on the Main in the presence of his secretary.

Q Let us be more brief.

A I am just getting to the main point.

Q Just a moment.....

THE PRESIDENT: Please allow the witness to finish his answer. The witness may continue his answer.

BY MR. HARDY:

Q Continue, witness, but let me repeat my question and let your answer be brief; did you impose on Koch to carry out executions? That simply can be answered with "yes" or "no".

A I was going to continue what I had to say and then I would answer you right away.

This evening, in the presence of his secretary whom I met in the course of the interrogation, Dr. Morgan said he found out from a phone call that his house in Frankfurt had been bombed by the American Air Force. Then, he came back into the room in an enraged state, shouted at me and said, I don't know what curses he used against me, but he said, if you killed the American swines for that you would deserve nothing but God's thanks, however, in the meantime if ten political prisoners are killed that is something we might talk about because they were the worst enemies of the SS. He said, "You killed political prisoners, "and that it was none of my business." He was so excited and inconsistent in what he was saying, my confidence was shaken completely. I can only bring this up now, because this man is saying now he worked for the welfare of the prisoners, however, as Himmler's personal deputy he simply furthered the extermination plan which Himmler outlined for the concentration camps, however, the exterminations were not meant for informers or professional criminals but for Jews and political prisoners.

Now, to answer your question directly, I never directly imposed on Koch.

Q It is not necessary for you to go on to such an extensive length to answer my question when it is as simple as that, Doctor. Now, on page 67, we note a reference made to Schaufelmeier; did you know Schaufelmeier?

A This is a killing with which Dr. Mergen charged me also.

Q Did you know Schaufelmeier?

A I cannot remember him, I had nothing to do with him.

Q Did you know Titz?

A I believe that was a man who worked under Koch, if I remember correctly; is that so?

Q I am asking you, Doctor?

A I think he was an orderly who worked for Koch, I do not know for sure, but if you will tell me I will know if I am right.

Q Did you participate in the murder of Titz?

A If this is the Titz I am thinking of, who was a servant of Koch, then I can tell you he is still alive. I saw him by accident on the day when I was taken prisoner. He is still alive, he is fine.

Q Who is Sommer?

A He was a supervisor in the bunker?

Q An SS man?

A Yes.

Q Is he one and the same Sommers who is now on trial here in Nurnberg?

A No, he has nothing to do with him.

Q Did you know the camp commandant's wife, Frau Polk?

A Yes.

Q Did you ever have any relations with her?

DR. GALLIK: I object to that question. I don't know what probative value the question is supposed to have.

THE PRESIDENT: What probative value could that have, Mr. Hardy?

MR. HARDY: To show the reason for the animosity the defendant contends he had with the camp commandant.

THE PRESIDENT: It appears to me immaterial and the objection is sustained.

BY MR. HARDY:

Q Did the prisoner doctors contribute to the writing of your doctor's thesis?

A No.

Q You are certain of that?

A Yes.

Q Did you participate in the killing of Collinet?

A No, but since investigations of this case were immediately undertaken against the illegal camp management, and I wanted to keep the prisoners from getting into any trouble and since the Gestapo had already arrested me I took it upon myself. I did admit some things I was asked and the things I didn't admit they said I did my way. That is the way they work. May I make an explanation of this, Mr. Hardy?

Q Go ahead.

A I want to tell you so that you will understand that better. I don't want to use up the Tribunal's time describing my experiences with the Gestapo when I was in prison because you probably know about the methods of the Gestapo but I want to remind you, Mr. Hardy, what their measures were, their practices. Your American fellow citizen, Frau Mildred Fish who married a German scientist von Harneck. She was going to teach in the University of Baltimore and is known for her translation of Edmund's "Drums along the Mohawk" and Stone's novel, "Lust for Life", which she translated into German. She was involved in some affair with her husband in a fight against Hitler, and sentenced to six years, after having been in the hands of the Gestapo. When she was taken by the Gestapo she had blond hair. She was a pretty young woman and left for the trial with white hair after Hitler had commuted the sentence and had condemned Mrs. Fish to death. Now these are the sort of methods the Gestapo used so you can understand such a document as this can come out of the Gestapo and it is pretty harmless in comparison with their other stuff.

BY THE PRESIDENT:

Q Witness, returning to the subject of punishment in Buchenwald, with what instrument were these floggings administered? How was it made and of what material?

A It was a leather whip. I can't tell whether there was a stool rod in the middle or only a wooden one. That I don't know.

Q How long was it?

A About so long. (Indicating)

Q Approximately one meter?

A Yes, roughly, yes.

Q How heavy was it?

A I don't believe I have ever picked up one. I can't really say how heavy it was.

THE PRESIDENT: The Tribunal will now be in recess.

(A short recess was taken)

THE PRESIDENT: Mr. Marshal, the Tribunal anticipated you a moment. It is unimportant. The Tribunal is now in session. Counsel, you may proceed.

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q Dr. Hoven, during the course of this examination --

A There is a noise in the system, Mr. Hardy. I can't understand you very well. There is such a noise over the earphones. There must be a ventilator.

MR. HARDY: We will have the ventilators turned off.

Q Dr. Hoven, during the course of your examination here you have related with considerable frankness your activities at Buchenwald. Now I want you to be as equally frank in the question which I am now about to put to you. You were in Buchenwald in one capacity or another from October 1939 to September 1943. During that period of time you must have seen many dignitaries and officials of the Government, the Party, and the SS come and go to and from the camp. You undoubtedly talked to many of them or with others who know the purposes of their visits, and also you may have had the occasion or must have had the occasion to see many orders, decrees and directives and correspondence concerning the activities of the camp.

Now, from what you have seen, read or heard from authoritative sources concerning Buchenwald can you tell us what governmental or Party or military or SS officials, organizations, departments or agencies had knowledge of the program of medical experimentation which was carried on with the prison inmates at Buchenwald?

A I shall, of course, give you information about everything I know. I am the last one to protect the SS or who has any reason to do so.

Q Did you ever see any dignitaries visiting Buchenwald?

A The Reichsstatthalter Sauckel who died in the meantime, the Prince of Waldeck and Piemont who was in Buchenwald frequently because he was the highest judge of the Fulda-Terra, district "SS-Oberabschnitt" and the camp commander of Buchenwald Koch was his deputy as judge. There

was a great enmity between these two. Koch was the one who finally lost. Then Heydrich visited the camp and about fifty to sixty high Wehrmacht officers.

JUDGE SEBRING: Who were some of them?

THE WITNESS: I was not introduced to them. They had the ranks of Generals and Colonels. Also physicians of the Wehrmacht visited the camp. As far as I saw, they visited the hospital.

Q (By Mr. Hardy) Did any of them visit the experimental station?

A I heard that the Prince Waldeck visited it; then Dr. Morgen whom I already mentioned before; also the so-called chief judge of the Prince Waldeck from Kassel, a Dr. Paulmann (spelling) P-a-u-l-m-a-n-n Paulmann.

Q Did any of the Wehrmacht physicians visit the experimental station?

A Of those who are present here?

Q No, of those who visited Buchenwald that you spoke about.

A I didn't understand that question, Mr. Hardy.

Q You stated that Wehrmacht physicians visited Buchenwald. Did they inspect or have the opportunity to see the experimental station at Block 46?

A I cannot recall whether they visited Block 46 because at that time I was in the hospital and I showed them the hospital.

Q Did you ever see any correspondence or orders or directives or any other communications or literature which indicated to you that the Wehrmacht or any members thereof had knowledge of the program of medical experimentation in Block 46?

A No, I did not see that. I assume that later on when I was already arrested this must have gone over Block 50, if that's how it was. I never saw any correspondence I didn't even know that they had a diary on Block 46.

Q Who in the SS had knowledge of Block 46 and the experimental work going on there? Did you have any knowledge as to that?

A About the experiments?

Q Yes.

A I cannot remember anybody at the moment. Whether I was told that somebody was there. I believe in September 1943 Mrugowsky was there. I know for certain that he was in Buchenwald at the beginning of September 1943. I met him on that occasion of his visit.

Q Well, was it generally known amongst the medical departments of the SS that an experimental program was being conducted at Buchenwald? Were you in a position to ascertain that?

A Do you mean the physicians who were at Buchenwald? Of course, they knew it.

Q How about other SS officials? Did they have knowledge of medical experiments which were conducted on prisoner inmates at Buchenwald?

A Well, the camp commandant frequently got visits, also visits of higher persons. I assume that he told them that there was an experimental station but I cannot say that for sure. You have to consider that actually I was mostly in the hospital and concerned myself with the problems of the prisoners mostly. We were happy if we didn't see those big shots.

Q Well, from what you have seen, read, or heard from various sources, can you tell us what officials had knowledge of the program of Euthanasia or the program of extermination of prisoner inmates?

A I told you, Mr. Hardy, when we met for the first time that I believe it was a slight error when you asked me "Do you know about the Euthanasia program of the German people"? At the moment I didn't know what you were referring to and then you said "When was action 14F13 started?" And, I told you I thought at the end of 1941 but about the Euthanasia Program of the German people I knew, per-se, nothing more than many Germans knew, namely that in insane asylums the patients were supposed to be exterminated or had been killed. These were rumors, I even believe that I heard it for the first time from inmates themselves

who had gathered it from some kind of notices in the newspapers and found out that something must be wrong. But this action 14F13 - you want to know who knew about that? What offices?

Q Yes.

A Well, the order, I was told, was given by Himmler. The inspectorate in Berlin must have known about it, therefore.

Q Which inspectorate is that, doctor?

A That was the Inspector Gluecks at the time.

Q Did you ever work for Gluecks?

A No. I know Gluecks because he visited Buchenwald two or three times.

Q Did he know about the existence of action 14F13?

A Mr. Hardy, of course, I cannot tell you from my own knowledge. But, according to all the connections which I found out about he must have known about it.

Q Is there anyone else you feel must have know about it? How about Grawitz? Did you understand me, doctor?

A I understand you. I am just thinking it over. I don't know it from my own knowledge. I don't know whether I can give you an answer which only expresses my assumptions.

Q Were you in a position to ever ascertain whether the high command of the Wehrmacht had any knowledge of these matters of experimentation and extermination?

A No, that I don't know.

Q Do you have any knowledge as to whether or not high SS officials, Himmler, Heydrich, and medical officials like Grawitz had any knowledge of this matter?

A Himmler certainly because he ordered that. At least that is what we were told, that is certain.

Q Do you have any knowledge whether the civilian sectors, men like the Minister of the Interior Frick, later Himmler, and doctors therein, Dr. Conti, for instance, had any knowledge of these matters?

A I can't tell you that from my own knowledge. I never had anything to do with them and didn't know them either.

Q Then you don't feel you are in a position to inform us as to the knowledge of the Government, Party, military, SS officials and organizations?

A As far as action 14F13 is concerned?

Q And experiments, yes.

A Mr. Hardy, I told you everything that I know.

Q I have no further questions.

EXAMINATION

BY JUDGE SEBRING:

Q Witness, do you have before you Prosecution Document NO 2312 which has been marked for identification as Prosecution Rebuttal Exhibit 524?

A No, I don't.

Q Will the page please hand that to the witness.

You will notice on the first page of that document appears

MR. HARDY: (Interrupting): Your Honor, I don't believe he has 2312. I had only one other copy.

BY JUDGE SEBRING:

Q Do you have it now before you?

A I have 2312 and 2313.

Q Do you notice that on the first page of that document appears the wording "reason for protective custody"?

A Yes, your Honor. After "Headquarters of the Concentration Camps".

Q Exactly. Now, under there appear ten categories as follows - under the heading "Reason for protective custody" there appear the categories: "political", "Politically revertible", "Professional criminal", "Bible researcher", "Racial polluter", "homosexual", "emigrant", "expulsion", "work shirkor", and, finally, "care -CARL". All of those are listed under the title "reason for protective custody", and I assume that this entire document deals with prisoners in Buchenwald who were being held there under protective custody. Is my assumption correct?

A Yes, that's correct, your Honor.

Q From your understanding of the situation under "reason for protective custody" what would be meant by the word "political"?

A They were the inmates who were arrested for political reasons. In the camp they were designated as "political prisoners". The term "political" refers to the German prisoners as well as to the foreign

political prisoners.

Q Are you familiar enough with the law that was in existence at that time as to know generally the types of actions on the part of these men that would make them a political prisoner? Would it be some action or breach, either against the government, or against the Party, or against individuals of the Party, or against the program of the Party, or against the flag of the Party, or any of the other things that are listed in the German criminal law of that period which set out penalties for any adverse action against the Party or its members? Is that what you would understand by a "political prisoner"?

A Your Honor, do you mean what I personally mean by it or what the SS understood by that?

Q Well, first what you understood by it.

A The political prisoner - I understand that it is a person who, because of his conviction, was an opponent of the then existing National Socialist government, either after serving a sentence which was passed by a special court or a regular court - a prison sentence or a penitentiary sentence - and who was then sent to a concentration camp. From my fairly good knowledge which I had through contact with political prisoners, the following has to be taken into consideration. Political prisoners could, as I said before, by a German regular court or a German special court, be sentenced because of any political crime - for example, the distribution of pamphlets or objection to National Socialism or one of its followers - they could be condemned because of high treason. They could be sentenced to prison or a penitentiary. After having served this sentence - I know from my own knowledge that on this very same day, let us assume that he was sentenced to three years in prison at the very hour after the three years were up he was again discharged from the prison. That is what was the usage before. Then he had to report to the Gestapo, or the Gestapo had already established a contact with the prison where he was being kept, and on the basis of his crime, on the basis of the sentence which was passed against him, that is, the

Gestapo decided whether a further so-called "protective custody" was necessary or not. By protective custody was meant that, in order to protect the German people from these political criminals, they were then sent to a concentration camp and, as I have already said yesterday, the following regulation existed, the so-called "Heydrich paragraph". The Heydrich paragraph said that for the protection of the security of the state and the German people, all political crimes had to be punished and political prisoners who had served a sentence, until the state was certain that they would not be revertible anymore, they would then be sent to a concentration camp for their improvement. The Gestapo office which sent them to the concentration camp was supposed to request a report on the behavior of the prisoner. If the report was bad, then they were supposed to ask for it again three months later. If the report on the behavior was bad again, then the Gestapo could wait one year before the next report, and it was up to the discretion of the concentration camp leader, the block leader who was a prisoner. In practice, it was handled this way: The prisoner was given a punishment by the camp and automatically his protective custody within the camp was prolonged by half a year. In practice, of course, the political prisoners hardly ever were released again. I personally remember a case in which it was being considered that a political prisoner, who had not done anything wrong be kept longer in the camp. Therefore it was said that he spit on the floor and had thus endangered the health of the rest of the prisoners and had damaged state property. Political prisoners showed the report to me one day. From their trusted men they got a copy, and that actually occurred. This was the reason given in the report sent not only to the commander, but it also to Berlin, and it was recognized as a reason. In practice, release was practically impossible unless special persons did something about it or the prisoner was released through some accident. I stated already yesterday how many steps he had to overcome. The SS and Gestapo, strange as it may seem, said that an inmate of a concentration camp was actually not a prisoner,

but put in protective custody. That was supposed to be a stage between a prisoner and a free citizen. It was supposed to be a better class than a prison inmate or a penitentiary inmate. Of course, this was not in accordance with the facts because a prison was considerably more pleasant.

Q Can you say to what extent this practice of treatment toward the political prisoner was known in the high circles of the SS or Wehrmacht or the government or the Party?

A Excuse me. I forgot to answer one of your questions before. This was not the only reason why the political prisoners were sent to concentration camps, but it could also happen that a Kreisleiter or a high-up Party official was insulted by some man or other who was not of his opinion politically. Thus, this official could, through his connection with the Gestapo, immediately have this man sent to a concentration camp. Of course, this was not the officially prescribed way, but, in practice, it was handled that way. Thus, it occurred, and I know of such inmates and in part I could even achieve their discharge, such prisoners who were sent to concentration camps with completely empty files. Only their names were on their papers. They were sent to concentration camps and then afterwards, they thought over what they might have done and remembered they had some fight with some Kreisleiter or somebody in the government and they assumed that was why they were sent to concentration camps. They were the practical cases that I know. Thus, there did not, of course, have to be a sentence of a regular court or a special court, but in most cases this was the procedure.

Q Now, can you state to what extent this program in actual practice was known among the officials of the Party, or the Wehrmacht, or of the SS, or of the government? In other words, was this practice pursued toward political prisoners an open secret - something that everyone knew about, generally speaking?

A No, no. The peculiar thing that, one of the former witnesses attempted to explain, but it did not come out quite clearly. In order to

answer your question directly, your Honor, the RSHA certainly knew it. Only the RSHA was concerned with political prisoners. Of course, the RSHA knew about it. Also the superior offices of the concentration camp commanders know about it because these decrees had not been issued by the commanders, but by the RSHA which was also over the individual Gestapo offices. The conditions could not be known among the German people and everybody in general because every inmate who was released had to sign a document in which he gave a so-called affidavit that he would not report anything about the events in the concentration camp, but this would not have been necessary even, because he knew quite well that he was not allowed to report anything, in fact, because if he had reported it and then he was returned to a concentration camp his death was certain. That is a matter which the inmates themselves, of course, know very well. Individual inmates told me that they did not even tell the truth to their wives for precautionary reasons.

Q Do you know of the fact that confined at Buchenwald as political prisoners were citizens from the Sudetenland, from Bohemia and Moravia, from Poland, or certainly that part of it that was taken over by the Government General, I believe it was called, or from Russia, or from the Netherlands or from France, or from Denmark or from any other occupied countries?

A Such prisoners were at Buchenwald, and in order to answer your last question, during my time there were no Danish prisoners. But during the time when I was an inmate in Buchenwald myself I heard from the concentration camp inmates that Danish police officers were supposed to have been there, they also told me once when I was in the cell that American parachutists and English troops had come to Buchenwald.

Q Now, in passing on to the next category, to "Reason for Protective custody" appears the category "Political by revertible" what do you understand is meant by that term?

A That was as follows: a prisoner who had already been once in a concentration camp and was then released and now for any reason whatsoever came into conflict with the law -- that is of course for political reasons, was then without serving a sentence, without being sentenced by the Court, immediately returned to the concentration camp. These prisoners had a red triangle and about this red triangle they had a horizontal stripe, about 3 centimeters wide and 8 to 10 centimeters long. This was worn about the triangle.

Q In other words, a political prisoner with the red triangle though, the politically revertible, wore the same triangle with the red stripe above the red triangle, is that correct?

A Yes, that is correct. There is also a third category which is not shown here. They were "action" inmates. They were inmates who had been in concentration camps once for political reasons. They were released and at the beginning of the war they were returned to the concentration camp without their having committed any political crime or any crime whatsoever, but only for the security of the state. They then

wore a red triangle, and the red horizontal stripe was not above the triangle, but about two centimeters below the top of the triangle, and at the end of this stripe that went through the triangle the prisoner's number was written.

Q I think I understand. The next category "Professional Criminal."

A They were green triangles, and of course there was also the same category of "green revertible prisoner."

Q Then we come to the category "Bible Researcher" what did you understand by that?

A Jehovah witnesses. That was quite a peculiar affair. The Jehovah witnesses were by Himmler at the beginning of the War sent to the concentration camps, and at least those who were sent there their lives were saved by Himmler, because they were conscientious objectors, and the Wehrmacht would have shot them if they had refused to take a gun into their hands. The reason why Himmler did this was that manpower was badly needed, so it was not an altruistical reason, but a very practical one. As a matter of fact the Jehovah witnesses were a very stable background in the camp. They were people who never lied, nor never stole. Therefore, they also succeeded, and after the original chicanery they had to suffer by the SS and informers they got positions in the food stores, which they administered excellently and then after their original difficult times they had very good positions in the camps. They had a purple triangle.

Q The next category is "racial Polluter," what do you understand by that?

A They were Jews, who had had sexual intercourse with German women or girls. They wore the Jewish star, and around it there was a black rim about two centimeters wide. This was around the entire star. I believe that theoretically German women and girls who had had sexual intercourse with Jews were also supposed to be put into concentration camps and also wore the Jewish star with the same black rim. I only heard that from stories told me by the inmates.

Q Was this Jewish star a yellow star?

A The Jewish star in the case of the political Jews who were sent to the camp was a red triangle and a yellow triangle. They were put over each other in the form of a Jewish star. Theoretically, of course, Jewish professional criminals would have existed too, but I don't remember any Jewish professional criminals in Buchenwald.

Q Passing to the next category, we have "Homosexual." I suppose that term almost answers itself. It is what we understand in the medical profession as homosexuality?

A Yes, Your Honor.

Q Then I will pass to the next category "Immigrant", is "Immigrant?"

A An immigrant, they were German political opponents of Nazism, who after the seizure of power by Hitler had left the German Reich and were living abroad, and were staying with friends who had the same political opinion as they had. For example, those who fought in the Spanish Civil War, and men, who for example, were living in France, and were supported by people of the same point of view and as far as I remember, especially those who fought in Spain were later on the basis of an agreement handed over. One thing for certain: when the Government again got them into their hands they imprisoned them in concentration camps. They wore a blue triangle, if I remember correctly.

Q The next category "Expulsion," E-x-p-u-l-s-i-o-n? what is that?

A I don't understand that, Your Honor. I heard that for the first time myself now.

Q Does that appear on that document you have there?

A Yes, it is on the document.

Q But you do not understand the meaning of the term?

A No, I don't understand the meaning of the term.

Q We will pass to the next, the next is "Work Shirker." Who do you understand to be a work shirker within the nomenclature of the concentration camp system?

A Here in the Court, Your Honor, you heard that mentioned already under another designation, namely asocial. They are the asocial people, who wore black triangles. They were the people who on the whole were treated best in the concentration camp, because usually they were neutral. They did not belong to any one of the extreme groups.

Q And then the final category is "Care", C-a-r-e; what do you understand by that?

A "Care," - before Hitler's time, that is before 1933, there were as far as I know in the German criminal procedure institutions which kept juveniles who had committed crimes, such as stealing or sexual crimes, and who were not old enough that is they were not of age yet, not old enough to be tried under the penal procedure. They were sent to care Institutions for that. I cannot state it with absolute certainty, but I assume they were people who had formerly been in reformatories, because they had committed some crimes they had to atone for, and after they became of age were then sent to concentration camps. They sure must have been very few of them. I never had anything to do with them, and I heard very little about it.

THE PRESIDENT: Very well. Thank you very much.

Is there any re-examination of this witness?

BY DR. GAWLIK:

Q. During the course of the cross-examination there was repeatedly talked about the fact that you were working for four years at a concentration camp as a physician, perhaps you will correct this now, namely, as the facts actually were. Do you have your affidavit before you of the 22nd, no that is the 24th of October, 1946; please look at that affidavit. What did you mean to express by the term "four years in a concentration camp"; describe what had to be differentiated here, the different parts and what different parts you were working in?

A. Counsel, I believe Mr. Hardy's question was whether I had been four years in a concentration camp irrespective of what positions I held there. Actually, from 26 October, 1939 until the beginning of January 1941, I was assistant physician and later troop physician in the gaurd troop. At that time I had nothing to do with the concentration camp at all, because troop physicians were forbidden to enter the concentration camp, a special pass was needed for that and only camp physicians got this pass.

Q. To what extent during that time did you have insight into the actual conditions in the concentration camp?

A. It is actually as follows: even people who were in the nearest surroundings of the concentration camp did not find out the facts maybe even less than some outsiders, because (1) it was strictly progibited to speak to prisoners at all, (2) they only saw them once in a while when they went to work and (3) if there had been the possibility to speak to inmates, they certainly would not have told the outsiders anything.

Q. In your affidavit, please look at paragraph 7 on page 3 of your affidavit, page 12 of the German document book, you mention the figure of 500 inmates; as I understood you and please tell me if that is correct; you did not name the figure, but Mr. Hardy told you the figure; is that correct?

A. I can no longer state whether it was Mr. Hardy or the interrogator, at any rate one of the two of them gave me the figure.

Q. And since you had full confidence in these gentlemen, which went even to the extent that you would have been willing to take these two gentlemen as your defense counsel, you agreed to the figure; is that how this figure came about?

A. Yes, that is correct.

Q. And the further figures of 10% and 20% how did you arrive at those figures?

A. I heard those from prisoners.

Q. In reference to the justification of these killings you began to make statements with what persons you discussed this at the time you were camp physician in Buchenwald, I believe that you did not conclude these statements; do you have anything to add?

A. It was a very difficult problem, of course, for me, who did not feel that I was in a position to make a decision and was not up to it. I then did the next best thing and got in touch with inmates who knew me very well and had confidence in me. I also discussed the matter with lawyers as to what could be done to assist in this emergency. Among others, I discussed it with the Duch Minister of Justice, who was a hostage in Buchenwald, I also spoke with Polish prosecutors and Czech judges, I spoke with authors, politicians and artists and we discussed together what could be done.

You have to imagine that these men formerly occupied a very important position in their country and also had the corresponding character. I have to insert here the remark that this Minister of Justice in particular and the Lawyers and other people, with whom I spoke, were a big exception from other political prisoners in the camp. They represented a higher stage, because as far as I know, they did not ask for any advantages that they could have had, because it was their opinion that if they could get another piece of bread or additional butter, they did not want it in order not to harm their comrades. That was their basic principles.

One day I was sitting opposite these men. They had their hair shaved off, they were thin and poverty stricken and they sat opposite me in their blue striped suits. We then discussed the questions which were in our minds because of this terrible terror of the informers. I, as a lay-man, was informed by them in a manner which seemed very obvious to me. They said, first you have to see who is your superior, legal office. That was very simple, that was the highest legal office, which was my superior and also that of the inmates, it was Himmler himself and his deputies. That we could not expect any justice from them was clear to everybody. We did not even have to talk about that. In addition, the paradoxical and unique feature of that was that Himmler in particular and his associates, who had established the concentration camps, who were the superiors of the guards, were also the highest judges. Himmler and his plenipotentiaries held these combined positions. This informer system and this killing system through the combination of criminally charged persons and the political inmates who were not considered criminals, they had thought out this mean and complicated system for the camps which held about 15,000

people. They had them under their control by this method and besides certain groups, which later combined a resistance group, no inmates could trust another one.

Therefore, one was confronted with the question what one should do next. Not a single inmate, either a political prisoner or a foreigner, was sure of his life and he never knew whether he should live to see the next day. These political prisoners, who agreed to be informers, were those professional criminals or some others who agreed to fulfill this task. They did this in order to receive a reward or because of personal hatred of the representatives of the bourgeois circles.

These facts existed and the officers of the justice administration said that no help was to be received from the legal officers, they would not do away with the conditions, therefore one would have to form an illegal committee which would then have to decide what was to be done with these informers. They did not feel entitled to judge the acts of such informers, but they told me there would only have to consider those cases in which they were forced to prevent further crimes that would cost the lives of a large number of other prisoners.

The other credible thing and the terrible thing that even today seem to be unbelievable to me was that political prisoners, be they Germans or foreigners, who fought against the SS, also assumed the risk that they would be discovered or their movements would be discovered and that they should be shot or hanged. But among them there were also some whose principle was, "I don't care about any one, I do not take any active part and I do my work in a way that nobody notices me." It was possible and it could happen that an informer happened to see this person's name on a list or

heard from another inmate and put him on such a list, and the inmate then disappeared. In such a manner, he was reported and innocently was accused.

The terrible thing was that this system had become some sort of home remedy. Individual blocks in which the prisoners lived five hundred together, there chief officer was an inmate who was called the block eldest or the block trustee.

When I was working with the illegal camp administration and committee, the conditions were as follows: These block trustees, if they were professional criminals or if they had been condemned before, had the following system: (1) they needed money and (2) they needed food. They had no other means at their disposal than taking the daily food which the prisoners got three times a day, they took 20 to 50 portions away, especially from prisoners who had been newly delivered into the camp.

Q. Dr. Hoven, I only wanted to know with whom you discussed the justification of the killings?

A. I talked with legally trained persons.

Q. Can you name one of them?

A. I named thos one Minister of Justice of Holland.

Q. Do you still remember his name?

A. At the moment I cannot recall it, but it is known.

Q. When was he Minister of Justice in Holland?

A. It must have been before 1939.

Q I now come to another point that was discussed here, that once you were in the horse stable where Russians were being shot. Were you there in capacity as physician or on order of the illegal camp administration?

A I was there only on the order of the illegal camp administration.

Q What was the purpose of your visit there?

A To observe Kuschnir Kuschnar and to observe what he did. This was impossible for the camp inmates. They were not admitted. Naturally the political prisoners were very interested in finding out what happened to their associates there.

Q Did you observe Kuschnir Kuschnar there?

A Yes, only for a short time.

Q I now submit to you again document 2312, that was submitted as Prosecution Exhibit No. 524.

A I have it here.

Q No, please at the original. Please pay attention to the dates. When was the document composed?

A 22 - no Buchenwald 6 August 1942.

Q When was the penalty with twenty five lashes executed?

A On the 6th of August 1942.

Q Now please turn the document over and read when the permission was granted?

A 10 August 1942.

Q Do these dates give you any reasons for knowing whether you signed this document before the execution of the penalty or after?

A It must have been after the execution. I don't quite understand what you mean counsel.

Q When was the document composed?

A 6th of August 1942.

Q When was Weidelok delivered into the concentration camp Buchenwald?

A On the same day - 6 August 1942.

Q When was this penalty executed?

A On the 6 August 1942.

Q When was the permission granted?

A That can be seen on the back of the page.

Q On the 10th August 1942?

A On the 10th of August 1942.

Q What results as a conclusion from these dates?

A That on the 6th of August while on his flight he was returned to the camp and on the 6th of August 1942 he was given the punishment.

Q Does the possibility exist that the document was submitted to you only after the punishment was carried out so that you could no longer prevent this punishment when you see this date?

A I said this already before. I said it was submitted to me afterwards.

Q Can you give a reason for this?

A Well certainly, if he was brought back to the camp, I can give the best reason. It won't be a legal one but from experience I assume that after he fled he was brought back to the camp. He came into the camp and on the order of the commander he was immediately given 52 lashes. That is my experience. It is not a legal reason but that usually took place without long discussions, that is what I assume, and I do know actually that orders existed that prisoners who fled should be shot and this commander Pister who signed this, had a somewhat softer heart and changed it by placing instead the death penalty, he had 25 blows administered to them, which essentially was much pleasanter, I assume that from the fact he was delivered on the same day that he got the blows on the same day.

Q Could you have prevented the carrying out of this penalty?

A I certainly could not have done so.

Q Now to speak about the category of professional criminals, what kind of inmate are we concerned with here, to what category did he belong?

A To the professional criminals, the green ones.

Q What can be concluded from that as to the nationality of the inmate?

A At least he was a German, a Volksdeutscher.

Q Where was he born?

A I see in Berlin, he was a German.

Q So what was he?

A He was a German professional criminal.

Q In regard to the carrying out of the penalty of the beating, I would like to call the attention of the Tribunal to the statements which I shall submit, especially the affidavit by Gottschalk, document Hoven 2, Exhibit No. 14, on page 11 of the English document book. Gottschalk takes an attitude in regard to the carrying out of his punishment, especially to the fact that Hoven did everything in his power to prevent this punishment and it shows in particular that political prisoners, especially the illegal camp committee, also interfered the matter, and that the illegal camp committee were present during the investigation. May I quote:

"When Dr. Hoven became physician and thus came under the influence of Walter Kraemer, Karl Peix - the underground movement - a change set in. Hoven refused his signature under influence and as the first of all the doctors had the courage to demand and carry out a medical examination before the whipping. Since we prisoners were present" --- and Mr. President I think this is decisive - "at these examinations we were able to save quite a number of political prisoners, and also some others who were all right, from the whip. We could not save them all but so far as I remember from that time until my release scarcely a political or otherwise prisoner from conviction went to the whipping post."

The same can also be seen by Rickart's affidavit to which I would like to call the attention of the Tribunal, document Hoven No. 5, Exhibit Hoven No. 15, pages 16 to 22 of the document book. I beg your pardon, your Honors, it is not Rickart's affidavit, it is the affidavit

of Schaublen, document Hoven No. 19, Exhibit No. 4, No. 2 and 3. In No. 3 Schaublen describes his own case:

"Easter 1941 was reported for punishment by the camp leader of his time, Flaul, for alleged laziness. In consequence of this report I was supposed to be dealt 35 strokes 2 days later. My comrades and acquaintances advised me to see Dr. Hoven and to ask his help. I thereupon petitioned Dr. Hoven. Dr. Hoven made inquiries regarding the incident and in some illegal way prevented the execution of the punishment."

Then Schaublen describes another case where the witness, Dr. Hoven in 1942, prevented the carrying out of the punishment with flogging of two Polish prisoners. This was supposed to be a public flogging.

In the affidavit of Schaeblen I would like to call the attention of the Tribunal to the fact that Schaeblen was a professional criminal. This can be seen on the first page of the affidavit where he says, "I received the green triangle because of some previous convictions, and I belonged to the category of professional criminals." This shows that Dr. Hoven did not only prevent the flogging of political inmates, but also of professional criminals who wore the green triangle unless they were informers or traitors.

THE PRESIDENT: Counsel, how much longer do you anticipate your redirect examination of this witness will require?

IR. GAWLIK: About fifteen minutes, your Honor.

THE PRESIDENT: Proceed.

BY IR. GAWLIK:

Q Witness, during the cross examination Document NO-365, the diary of Ding was discussed. Dr. Hoven, do you have that?

A Yes, I have the document book.

Q Page 38 of the German. It is the entry of the 17th of March 1942. By means of referring to the document please find out when the experiments took place and when, the illness of Ding you once exceptionally were supposed to supervise Blocks 44 and 49.

A I supervised 44 and 49, yes, that is correct, but during that time no experiments were carried out.

Q When were the experiments carried out, on what date?

A By Dr. Ding, you mean?

Q Yes, when? You can see that on page 37.

A On the 6th of January 1942 and 1 February 1942.

Q Please repeat. I didn't understand.

A On 3 March 1942.

Q When did it become apparent that Ding was sick?

A On 17 March 1942.

Q And when was the next experiment carried out?

A On 19 August 1942.

Q Now, I am going over to another point, to Document NO-2386.
Do you have that before you? It is the report by Dr. Morgan.

A No, I don't have it.

Q Please tell the Tribunal what we are concerned with here,
whether it is a sentence or a judgment or what kind of a document it
is.

A It is an investigation, the final report on an investigation.

Q Please, what does it say on the first page?

A Indictment, indictment, it says.

Q And who wrote the indictment?

A Dr. Morgan.

Q Please turn to page 46 where Dr. Morgan gives his opinion
about the legal situation of the killings. Do you have that paragraph?
Please read what legal opinion Dr. Morgan had about a killing of inmates.

A On page 48?

Q It is page 46.

A Oh, 46.

Q The legal situation.

A I can't see anything.

Q The typewritten page 46.

A Yes, it says about an embezzlement. The numbers are at the
right upper corner of the page.

Q In typewritten -- not handwritten 46.

A Oh, with the typewriter -- there is a hole here.

Q 53 in handwriting.

A "The right" -- shall I read?

Q Yes please.

A "The right to decide about life and death of concentration
camp inmates is transferred to the Reichsfuehrer SS. He, for certain
categories of inmates, especially members of the Eastern peoples, has
delegated this power to central offices of the RSHA."

Q All right, thank you. Now please turn to page 67, typewritten page 67.

A I can't read it.

Q Page 74 in handwriting.

A Page 74, yes.

Q In the middle of the page, what Dr. Morgen wrote about you.

Please start with the sentence, "His large achievement in Buchenwald"—it says here "direction" Leitung, but it must mean Leistung, achievement.

A "His great achievement in Buchenwald is that among the inmate nurses and physicians he recognized the really able persons and left them free play. Through his good connections of official and private nature he also secured for the hospital all kinds of advantages and prevented disturbing interruptions. Due to that — and this is a personal achievement of Hoven's — the camp remained free of pests and within the scope of what is humanly possible everything was done for the sick people that was possible at all when one takes into consideration the temporal and camp conditions."

Q Please continue.

A "This attitude of Dr. Hoven's already also had some disadvantages since he relied blindly on political inmates. It is to be assumed with certainty that this key position which they had because of that, they misused for the purpose of camp administration."

A All right, then please turn three pages over.

A Page 76?

Q No, 70, page 70, what he says about Kuschnir Kuschnarev, page 77 in handwriting.

A Page 77?

Q Yes, in handwriting.

A I don't see page 77 in handwriting.

Q I think you confuse the figures — the handwritten figure 77 and typewritten page 70.

A All right.

Q What does Dr. Morgen say about Kuschnir Kuschnarev?

A "The inmate, Kuschnir Kuschnarev"---

Q I do not want to take up the time of the Tribunal. Begin with the sentence, "SS Standartenfuehrer Koch"---

A "SS Standartenfuehrer Koch used him as camp informer against the Communist cliques among the concentration camp inmates."

Q Thank you, that is all.

A But not only Koch did that, but it was done in agreement and on or of Heydrich. Because of this man he reproached me especially. He described him as the most devoted and helpful assistant of the SS.

Q Please look at the affidavit of Ackermann again.

A I don't have it.

Q Please turn to page 3. Did you ever have a conversation of that kind with Ackermann?

A I never had such a conversation with Ackermann. What supprises me most in this matter is how a man can get this idea at all. It is just about the most absurd thing that I have ever heard and everyone who knows me would laugh about it. Moreover, I never had a skull on my desk. The only thing that the inmates put on it was a bunch of flowers every day. I could have obtained such things for some medical interest from prisoners who had died if I had been interested in it, but I didn't have any interest in it at all.

Q. Finally, the following: Is it correct that you killed two informers and traitors who were described to you as such by the illegal camp committee, is that correct?

A. Yes. I had to kill them because no one else could do it.

Q. Is it correct that you had knowledge about the killing of about fifty further informers and traitors?

A. Yes, that is correct.

Q. And is it furthermore correct that with the last - the ninety - you had nothing to do?

A. No, I only found out about the killing afterwards.

Q. And if the killing of these informers and traitors would have been reported by you to the SS what would have been the result?

A. A very welcome action against political German and foreign prisoners. At least, would have had reason for their actions.

Q. Do you have anything more to say to the question of the Prosecution, namely why you will not mention the names of the illegal camp committee who carried out the killing of about 50 informers?

A. That would not lessen my responsibility. I said already that there was no other possibility. I understood that and there were no ethics in a concentration camp - only the naked life of the inmates was concerned. And I do assume the responsibility for that.

Q. And what were the further motives that are decisive here?

A. That a smaller number of other inmates would be killed.

Q. No, you misunderstood my question, Dr. Hoven. What motive is decisive for your not naming these names?

A. My case has not yet been decided and as long as it has not been decided I do not have the right to name these names because it is my opinion that if I did name them I would not better than the traitors and informers against whom I fought.

Q. I have one more question. With regard to Ackermann's affidavit. Can you make some statements to the effect whether it is possible at all to prepare a skull from day until tomorrow. That is,

within 24 hours. Don't you know that?

A. I can't answer that from my own experience. But I really can't imagine it and I believe if he would be such an honorable person as he tried to describe himself he would at least had tried to convince me not to give such terrible awful order, even considering conditions in a concentration camp regardless of the fact that I never even thought of saying such a thing.

Q. Mr. President I have no further questions to the witness but I have to submit three further documents.

DR. FLEMMING: Mr. President, I ask the Tribunal to excuse the defendant Mrugowsky tomorrow afternoon from the session. A witness which the Tribunal permitted me to call arrived in the prison yesterday. I do not intend to summon him here on the witness stand but if possible shall submit an affidavit from him. For the preparation, however, I have to discuss a number of questions with Mrugowsky. Therefore, I ask that he be excused by the Tribunal during the afternoon session tomorrow.

THE PRESIDENT: Pursuant to the request of counsel for the defendant Mrugowsky the defendant Mrugowsky may be excused from attendance before the Tribunal during the session tomorrow afternoon counsel desiring to consult with his client concerning the latter's defense. Counsel for the defendant Hoven may proceed to offer the documents.

MR. HARDY: It is my understanding that the testimony of Hoven has been completed?

THE PRESIDENT: Yes. The defendant Hoven may be excused from the witness stand.

DR. GA'LIK: The next document which I submit as Document Hoven No. 11, Exhibit Hoven # 17, that is page 38 of the Document Book. It is an excerpt from one of the documents submitted by the Prosecution in Case IV, 499PS, Exhibit 123. By this document I want to prove what means were used by the defendant Dr. Hoven or with his knowledge the

the informers used who were killed, and what means they had to kill the decent inmates, especially political German and foreign prisoners. The next document I want to submit as Document Hoven 15, as Exhibit Hoven No. 18 on page 54 of the Document Book. This document, your Honor, is a supplement to Pieck's testimony, page 4785-86 of the German transcript and page 4725-26 of the English transcript and a supplement to the affidavit of Pallandt van Erde, page 45 of your document Book, Document Hoven # 13, which I already submitted as Exhibit Hoven No. 10. From this affidavit by Pallandt as well as from Pieck's statement results that Hoven maintained his contact with the Netherlands hostages. Document Hoven No. 15, that is Exhibit 18, you see this was strictly forbidden and that the defendant Hoven by that acted contrary to existing regulations. Inmates of the camp under Keitel decree, NN-decree, as it is known were forbidden every correspondence with others.

And as a further document in the same connection I submit Document Hoven #16 as Exhibit Hoven 19. It is an excerpt from a document which the Prosecution submitted in case 4 -- Document NO 1553, Exhibit 69, in that case. The 2 paragraph says, "In the case of NN inmates, care must be taken that they do not get into touch with their relatives or any other authority." And from the first paragraph, I submit that as evidence to the subject: Releases from the camp. From this it appears that it was even forbidden to make application for discharge to RSHA or RKPA. In spite of that the defendant Hoven acted contrary to those regulations and illegally especially with the help of his office, succeeded in having large numbers of inmates discharged in this manner. With this I have concluded my submission of evidence for the defendant Hoven for the time being. However, I reserve the right to submit further evidence.

THE PRESIDENT: The right to offer further evidence is reserved to counsel for the defendant Hoven. The Tribunal will now be in recess until 0930 o'clock tomorrow morning.

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OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 1 TRIBUNAL I
U.S. vs KARL BRANDT et al
VOLUME 27**

**TRANSCRIPTS
(English)**

25-28 June 1947 pp. 10006-10381

Official Transcript of the American Military
Tribunal in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nuernberg, Germany, on
25 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.
The Honorable, the Judges of Military Tribunal I. Military Tribunal I
is now in session. God save the United States of America and this honor-
able Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain that the defendants are
all present in court.

THE MARSHAL: May it please Your Honor, all the defendants are
present in the court.

THE PRESIDENT: The Secretary will note for the record the presence
of all the defendants in court. Counsel for the prosecution.

MR. HARDY: May it please Your Honor, unless I haven't carefully
perused the papers in my desk, as yet I haven't received the notice of
the call of the witnesses for the defendant Pokorny, and I should like
to receive those notices as to name, and so forth, the regular form.
In addition to that, Your Honor, it may be possible that the prosecution
will have some of their rebuttal witnesses here by the end of the week
and we may be able to put some of them on the stand Friday or Saturday,
as the case may be. In the event that we do have rebuttal witnesses
ready and available, the prosecution requests permission at that time,
or will request permission at that time, to call the rebuttal witnesses
and interrupt the presentation of the supplementary documents on behalf
of the defendants, if that is permissible by the Tribunal.

THE PRESIDENT: That will be permitted by the Tribunal. We will
hear the witnesses when they are ready.

The Tribunal has on its desk this morning the list of witnesses,
at least two witnesses for the defendant Pokorny - just a list of names.
We have not received the statement as to each individual witness. The
witnesses are Rudolf Trux and Dr. Ernst Koch.

MR. HARDY: May I ask, does defendant Pokorny's attorney intend to

call his witnesses after he has called the defendant?

DR. HOFFMAN (Counsel for the defendant Pokorny): Mr. President, I believe that I submitted my witness list in time. First, I wanted to call the defendant Pokorny to the witness stand, then the witness Trux as the next one, to prove the assertions of the defendant Pokorny about the motive behind his letter. Then, in the matter of the experiments with palladium, the witness Dr. Koch will be called from Madaus and Dresden-Radebeul; and, finally, the lecturer in pharmacology at the University of Wuerzburg, Dr. Jung, as general experts on the sterilization questions on a pharmacological basis.

THE PRESIDENT: The Tribunal now calls the case against the defendant Pokorny. At the request of defendant's counsel, the defendant Pokorny will take the witness stand.

(ADOLF POKORNY, a defendant, took the stand and testified as follows:)

BY JUDGE SEBRING:

Q. Please hold up your right hand and be sworn:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY DR. HOFFMAN (Counsel for the defendant Pokorny):

Q. Witness, when and where were you born?

A. I was born in Vienna on 26 July 1895.

Q. Witness, please tell the Court something about your parents and the external circumstances under which you grew up in your parents' home.

A. My father was a farmer's son. He studied technics and then he graduated from the Farmers' Agricultural College. Upon request of the Ministry of War in Vienna he accepted a position as a military official in Austria. When Czechoslovakia was created, he was taken over

and the Republic continued to pay his pension. My father thus was not only an officer but, having studied at college, he was especially educated in general subjects. My mother was a daughter of a physician. Her father had been an assistant of the famous Czech oculist des Furkiny. Her essential characteristics were an extraordinary knowledge of languages - she spoke seven languages - and her understanding of music and literature. My parents, because of the position of my father as a military official, lived in Austria, Herzegovina, Bosnia, Dalmatia, Poland and, finally, in Bohemia. I, myself, in addition also lived two years in Hungary - that was conditioned by the World War. The consequence of this soldiering, I would like to say, in all of Europe was an exact knowledge of European conditions, furthermore, an understanding and a love of the different peoples and, therefore, a tolerant attitude politically.

Q. Witness, what was your formal education?

A. I went to public school partly in Galicia, that was a military school which taught in the German language. My further education I got in Bohemia in the Gymnasium in Prague.

Q. At what universities did you study?

A. I studied at the German University in Prague—I studied medicine there. I began approximately at the beginning of the World War. Since I was drafted into the Austrian Army, I lost four years which I could make up for only in part, namely, only one year. Due to the loss of those semesters, I was forced to work day and night since my parents too had lost all their property due to the war. Therefore, I worked simultaneously, in addition to my study, at the Institute for Experimental Pathology, the chief of which was the famous Professor Biedl, who was not only my chief but also a fatherly friend to me. Then I worked at the Institute for Physiology with Professor Teernack-Zeisonock, and for an especially long time in the Institute for Anatomical Pathology under Professor Ghon, a well-known tuberculosis and cholera research man. At this Institute, I studied especially pathological histology and this resulted in the fact that Professor Kreibich, who needed a histologist, called me to the skin clinic.

Politically, as a student, I was democratic and liberal in accordance with the atmosphere and conditions in Prague. I was also not a member of any national fraternity.

Q. Witness, why did you study medicine?

A. The beginning of the World War in Serbia was a very shocking experience for me and, since I was leaning anyhow in a pacifistic direction, the World War convinced me that war is a condition that one should not strive for and, due to these spiritual experiences, of the World War, I felt the call to become a physician in order to help humanity.

Q. Witness, in the medical field did you also get a specialized

training in a specialty?

A. After I went to the skin clinic I soon became an assistant of Professor Kreicick who, at that time, was probably one of the leading dermatologists of the world. He gained a particular confidence in me, and soon I became an assistant, one month after I graduated. He put me in charge of the infirmaries. I was in charge of two departments. He charged me with the responsibility for the lectures that everything was prepared, that the charts and exhibits would be ready and he charged me finally to lecture during the summer semester myself. He only reserved the winter semester to himself, and I lectured in the summer. I was, in other words, so to say, a scientific assistant and private assistant.

In addition, I studied X-ray, because my fiancée was an X-ray specialist, at the Second University Clinic for Internal Diseases under Professor Jabsch Wartenhorst, who was a leading man, at the beginning of X-ray and especially toxicology. His X-ray assistant was Professor Herrnhauser. I was especially interested in X-ray diagnosis as a borderline field of my field of specialization. I then went to Vienna, where my wife worked at the Central X-ray Laboratory of Professor Holzknecht. I was in the Urological Station of the Second Surgical Clinic where Professor Honig was in charge. In the Urological X-ray station, Professor Pallogoy, and in the Dermatological, Richl and arz. Later, there were short sojourns at other universities for certain specialized studies which are not very important.

Q. After finishing your medical study, did you want to remain at the University or did you want to establish your own practice of medicine?

A. There were certain factors which favored me at the University of Prague. In addition, I had worked scientifically. Therefore I wanted to become a University professor. Professor Kreicick had

also promised me to help me and informed me that the preliminary question in regard to fifty-four professors had resulted in fifty-two positive answers, one vote against me, and one who had refrained from voting. Due to the selection of a Jewish Rector, Professor Steinhart, there were student riots in Prague against this selection and we assistants in the skin clinic did not participate in this strike. Therefore, we were described as scabs and this put us in a rather bad light. The National course at the University began, at that time, to take form rather intensively, supported by Professor Oeschneck, who was in charge of the Eye Clinic, and Professor Schloffer in Surgery, and others. My chief, who was otherwise liberal, could not also avoid this influence entirely and, since my wife was Jewish, I saw that I might not get my assignment as lecturer.

Q. How and where did you then create your own medical practice?

A. I then was called to Komotau and there I took over as first consulting physician at the Hospital, but, in 1927, I gave it up for external reasons. Simultaneously, I founded my own practice for dermatology and urology and my wife founded a practice for X-ray diagnosis and X-ray therapy.

Q. During the years when you were a practicing physician, did you also work scientifically?

A. Scientific work, especially in the pathological histological field, of course, also in the dermatological field. I composed these papers at the clinic alone, as well as with the assistants, as well as with my wife. On the basis of my experience in practice, I also wrote some papers, mainly together with my wife. The subject was dermatology or X-ray diagnostics or concerned with X-ray therapy. Since 1922, due to a personal connection, I worked also in the pharmacological clinical field for the Prague pharmaceutical firm, Meugine. Altogether I wrote about twenty papers, of which I would like to mention only two. Namely I described, at the International Dermatological Congress in

Munich, in 1922, a new disease, dermatitis rubra (pamphus vulgaris), which got my name. In addition, I discovered the table salt retention in an otherwise fatal disease against which there was no drug, and through the discovery of this sodium chloride retention the first effective method against this terrible disease was created. In addition I also gave lectures at International Congresses, but that isn't so important.

Q. What organizations of physicians or otherwise did you belong to during your student time or later on?

A. I belonged, of course, to the Prague Association of Physicians. Then, to the Dermatological Society in the Czechoslovakian Republic, and of the Association of X-ray Radiology Specialists in the Czechoslovakian Republic I was also a member. I was especially active in the Society for the Fight against Venereal Disease for I worked for about fifteen years in a dispensary of this Society without being paid. I was only paid for my expenses. In addition, I was the expert for the state for dermatology in Czechoslovakia. Previously, I was active in a sport club. I was a member of Schlaraffia. Schlaraffia was a society which was organized somewhat like Free Masons on a philanthropic basis. In no way did it have a political orientation, but later on, under the Third Reich, it was fought against, especially with us at least, but soon that abated.

Q Did you belong to a student fraternity?

A (no response.)

Q Did you participate in the first World War, and what were your experiences?

A On March 15, 1915 I was drafted, and I was with a munitions column. I took part in the campaigns at Serbia, Montenegro, Albania, and Italy. At the Russian Front I was for a short time in the Stochod area. I there got bengue fever and 5-day fever. Later I got typhus and when I could no longer serve at the front I was assigned to Infantry Regiment 94 in Ketchkomet, where I worked at the hospital for infectious diseases during the next two years and in the surgical division of the field hospital. At the end of the World War I was discharged as First Lieutenant of the Medical Corps.

Q Witness, I asked you before whether you belonged to a student fraternity, and I don't know whether your answer was heard.

A No, I was not a member.

Q Witness, after the First World War Austria was divided and you became a Czechoslovakian subject, is that correct?

A Yes.

Q Did you also serve in the Czechoslovakian Army?

A Yes, I served twice. In 1921 when the Emperor Karl landed in Hungary by surprise by airplane, Czechoslovakia at that time mobilized her Army against Hungary. I was drafted at that time and was Chief Brigade Physician at the front in Czechoslovakia. The conflict was then settled in 1926. I took part in the maneuvers with the 105th Heavy Artillery Regiment in Budweis. The result was that in the Czechoslovakian Army, I became a First Lieutenant in the Medical Corps for the second time because my promotion in Austria was not recognized by the Czechoslovakians.

Q After the occupancy of Czechoslovakia were you also drafted into the German Army?

A In 1939 all former officers of the reserve corps had to re-

port, and I was first informed that as a politically unreliable person, and because I had served in the Czechoslovakian Army as an officer, and because of my former Jewish wife, I was regarded as being very unworthy. I did not care about that very much, because I assumed that the Nazi Regime did not want to disregard political opponents. In 1941, I suppose about July, however, I was informed that as I was maintained on the records as First Lieutenant on the Reserve in retirement. In December 1941 I received a second report that I was "Z.V." - available - as First Lieutenant in the Reserve Corps; I was kept on the records and that I was already assigned, that I would be drafted. On the 28 of January 1942 I was drafted. Since the League of Physicians at that time was already so extensive, I assume, therefore, that physicians who were politically suspected were also drafted. I was ordered to Saxony to the Reserve Field Hospital, Oberschlema, where I was working at a station for skin diseases for half a year, and then for a year and a half I was detailed to the Surgical Division, that was in Ave, and then I was put in charge of a division for venereal disease at the Reserve Field Hospital, Hohenstein-Ernstthal. I want to emphasize here that it was the division field hospital, and not my own hospital, because I discovered two mistakes in the affidavit I gave here. Shortly before the collapse I had to transfer my hospital to a British P.W. Division; these were British T.B. patients; and so at the last moment the field hospital was transferred to Lichtenstein-Vallenberg.

Q Witness, during the war you were promoted from First Lieutenant to Captain; how did you behave as a physician in the German Army; did you endeavor to be especially strict in the exercise of your medical duties or in the exercising of your position as a military superior?

A That would not have suited my character and my attitude at all. I believe that in accordance with my duty I observed the international laws of the Geneva convention. I did not recognize any dif-

ference between officers and enlisted men, between Germans and P.W.s in any way. The regulations which had been issued in a somewhat exaggerated form, due to total war, ordered a hasty and rigorous classification of the soldiers at that time; as many as possible were to be classified fit for service. I did not obey this order, so far as I was able to avoid doing so, since the health of the person was more important to me than this order. In spite of the large amount of work I had to do I voluntarily conducted a dispensary for prisoners of War, in which about twice a week I treated about 50 prisoners of war, who were composed of about 20 English, 20 Frenchmen and 10 members of other armies. I treated them for two years. Every time I consulted with 5 British and one French physician. Since these physicians were not specialists for skin diseases and the treatment in this dispensary for P.W.s was about one kilometer away from the field hospital, I was in charge of the treatment which they had to carry out there. I still remember one day the English Lieutenant Colonel in the Medical Corps, Dr. Bell or Dr. Bull, I don't remember exactly, from New Zealand, who towards the end of the War asked me to come to New Zealand after the close of the War.

Q Witness, for me the question is still open, how your promotion from First Lieutenant to Captain came about?

A I told you already that at the end of the World War I was First Lieutenant in the Medical Corps. That was not recognized, and at Czechoslovakia I was again promoted to First Lieutenant in the Medical Corps. Germany did not recognize that, and then I was given my rank back after all, and toward the end of the War I became a Stabsarzt, that is equivalent to a captain in the American Army. I did not get any awards.

Q Witness, you are married for the second time, is that correct?

A Yes.

Q When did you marry for the first time and how was this

marriage dissolved?

A In November 1922 I married for the first time. I married a fellow student, Dr. Lilly Weil, who then became an X-ray specialist. Later on differences in character, however, became apparent, so that after 13 years, in July 1935 we were divorced for non-political reasons. I was given the son and my wife was given custody of the daughter. In June 1938 my wife went to Czechoslovakia, first to Pilsen and then to Prague.

Q When did you marry for the second time?

A Eight years after my divorce from the first marriage in September 1943. I married the daughter of a citizen of Komotav. Her maiden name was Trux.

Q From your first marriage, do you have any children?

A Yes, I have a daughter who was born in 1926, her name is Lotte; and a son who was born in 1929; his name is Thomas.

Q Did you have any children in your second marriage?

A No.

Q Witness, where are the children from your first marriage?

A They are in England.

Q When did these children go to England?

A They went in June of 1939, when they were ten and thirteen years old, respectively, alone on a Czecho-Slovakia children transport to England.

Q Why were these children sent to England; did you have any special reason for doing so?

A I want to add in regard to my first question that I did not know anything as to what had become of my children for seven years. I did not know if they were still alive because ever correspondence, even by the Red Cross, was forbidden to me by the competent authorities of the Gestapo and the H.S.D.A.P. in Komotau. I attempted to establish contact with the children in an illegal way and then failed. In other words, I could not establish any contact with them.

Q Witness, I repeat my previous question; why were your children sent to England; did you have any reason for that?

A The children were half-Jews of the first degree of mixed blood, they were endangered in Germany or Europe to the extent that they had to emigrate.

Q You could not see that your children could advance in Germany at all; did you?

A Due to the Nurnberg law, the children would not have any opportunity to go to school, to continue their education, to say nothing of the fact that they could not go to universities and they could not also have earned a living. Moreover, the danger became apparent at that time to which Jews and the people of first degree mixed blood were exposed.

Q Witness, in the Czecho-Slovakia state did you belong to a political party?

A No.

Q After the occupation of the Sudetenland did you belong to a party?

A Doctor, I only want to say I always voted democratic; in other words, I gave my vote for men who were democratic men I was a physician, I was busy and I had no time for politics, I had other duties.

Q After the occupation of the Sudetenland, did you belong to a party?

A No, there were no elections after that time. Due to my marriage, my children and my political opinion, I had no cause to join the Nazi party.

Q Witness, after the occupation of the Sudetenland, did your economic status change?

A My economic situation changed for some time and it changed considerably for about one half to about three-quarters of a year. In our city, the structure of the population was changed, because the Jews who composed part of my practice were no longer there. The Czechs had emigrated to the part that still remained to Czecho-Slovakia and they had composed a large part of my practice because I was the only physician that spoke Czech and had a positive attitude toward Czecho-Slovakia. The young people after the Anschluss were called into the new formations, the Army, the Luftwaffe and the Navy, as well as party offices and offices of the state, so that actually most of my patients actually disappeared. Moreover, the boycott against me started at that time, because I was known as a person who thought democratically and had been married to a Jew. After I foresaw a catastrophe, I did not keep any money, but invested everything I earned in agriculture. After about three-fourths of a year I was faced with extraordinary financial difficulties, but finally my reputation as a physician prevailed again

and the lack of physicians was acute, also because many physicians were drafted into the new formations. Due to these matters, my medical practice became so large that I could hardly take care of it. Thus, in about one year after the Anschluss, I was in a very favorable position financially.

Q Witness, in your personal situation after the occupation of the Sudetenland were there any changes?

A Matters which had been of much importance before, for example my political opinion, which I never expressed openly or my former marriage or my children, after the occupation suddenly came into the foreground and were part of judging my personality, for it is known that the racial concern became a main object.

Q What was the attitude of the Party and the other officers in Komotau and the Sudetenland; what was their attitude toward you?

A You have to imagine that quite a different stratum of the population now got to power and it was very sad for me to find out that particularly those people whom I had helped when they were helpless were now extraordinarily active against me. On the very day of the Anschluss of the Sudetenland was painted on my car by an unknown person a Jewish Star, which was about 30 to 40 centimeters long, the word "Jew" was painted on my car with white paint and I could not remove it anymore.

Immediately after the occupation, I was subjected to severe investigations by the Party, the Gestapo, and the S.D. These lasted for several hours. I also received the confidential information from an agent, who was my patient, that I was in the files of those who had to be politically observed. During the interrogations I was also given certain prohibitions. For instance, the Party prohibited me from corresponding with my former wife and my children and above all from sending them money. A lady in the employ of the Post Office informed me that of course my mail and my telephone was being checked and this could

also be noticed in the letters I received. In the house, in which I had my practice, on the first floor there was a beautiful apartment, in which I had lived before with my wife. I wanted to move into this apartment, but this was made impossible because this apartment was confiscated. The other officers did not want to be left lagging behind and since I had a Czecho-Slovakian housekeeper, the D.A.F. questioned me about her. In my farm, which I had in Czecho-Slovakia, about five kilometers away from the city, I had a Social Democratic couple and a Democratic couple, who worked during the season when there was a lot of work. Both couples had repeatedly been in concentration camps and their political opinions had not prevented me from employing them at all.

Thus, not only the Party, but also the local farmers union interfered in my life. Later, during the war, a Pole was assigned to my farm and since I treated this very intelligent person very well, on the basis of the existing regulations, I was also called to account. It was important that in the first meeting of the Nazi Party I was pointed out publically as the example of a bad person and it was requested that I be told to leave the city. My constant worker, Julius Strauss, immediately informed me the next morning that I would be expelled from the city. The reasons for these persecutions, or these inconveniences, were of course my marriage and the children, a fact that I could not deny. Therefore, I was practically persecuted for racial reasons. My public, of course, did not find out anything about all these things, or at least very little, as I was not allowed to talk about them and a person who knows the conditions of the time knows that one did not speak of such things. One spoke only to people in whom one had absolute confidence.

Another very difficult point was the investigation to my house, because half of it belonged to my wife, who was a full Jew and half belonged to me. The office which took over Jewish property in Pilsen or in Carlsbad sent an agent to me and it was very difficult first to

fight to free the half that belonged to my wife and then my one half, because I wanted to maintain the property of my wife and my children. At that time, of course, we had to use all kinds of divers ways; thus I started a book, in which I registered the expenses of the half of the house, which belonged to my wife. There I listed amounts of money which my wife did not owe to me, but by means of this book I could show the agent that my wife had debts to me and in this way I proceeded slowly in my way to prevent this confiscation.

Q. Witness, a final question in regard to this chapter, was your admission to practice as a physician not attacked or did you have difficulty in that respect too?

A. First, I was forbidden to practice on insurance patients. This was started by the KVD Aussig, that is the Insurance Association for Germany, "Kassenärztliche Vereinigung Deutschlands". It was very unpleasant to have my x-ray apparatus confiscated. First the KVD started some negotiations about the sale of the x-ray apparatus with me and since it was quite a new Siemens four-valve apparatus, I absolutely did not want to give it up, but one afternoon I came to my office and with surprise I saw my x-ray apparatus had been put on a truck. Some technicians took away the rest of the connections. They also took parts which did not belong to the x-ray apparatus, films, development lamps and transformers which didn't even belong to me but to my wife. In the place of the price at which I bought it, which was 17,000 reichsmarks, I was paid 7,500 reichsmarks. Later on work with the x-ray apparatus was forbidden to me. It was significant that the personnel chief of the Landrat office, a certain Braefner, denounced me to the Nazi party. The Kreis physicians' leader, who led this affair against me, allowed me to look at the documents and I still remember today the formulation by which I was deprived of the doctor title, the prohibition to practice, and expulsion from Germany, it says as an unworthy human being who is equal to Jews and Czechs. The Kreis physicians' leader, however, was in favor of me, and I can thank his efforts that the whole matter during the course of time died down. The lack of physicians played a not unimportant role in this, to be sure.

Q. Witness, how long did this persecution last?

A. Well, these events happened more or less simultaneously and some of them, of course, one after the other, but on the whole towards the end of 1940 approximately, I had no longer any of these unpleasant experiences. The cause was probably that other persons now again became

the target of persecution of the party. The offices more or less calmed down and above all the events of the war probably guided the people who were against me, as well as the party, the Gestapo, and the SD, and turned their attention away from me. In the meantime I had learned how one has to behave, how one has to camouflage oneself and when one can talk and when one has to be quiet. In this way I had a seeming rest finally.

Q. Witness, were you politically about in the same position as the expert for the Prosecution who appeared here, Professor Leibbrandt?

A. The statements of Professor Leibbrandt were very interesting for me because they showed an absolute parallel. He also is an Aryan and he was persecuted under the Nurnberg laws only because his wife was Jewish and in my case the children were Jewish. In addition, the confiscation of my x-ray apparatus I regarded formerly as a personal chicanery, but due to the statements of Professor Leibbrandt I realized that this was a measure which was taken against all pacifists, socialists, and liberals, all physicians who thought that way, and that this was a wide-spread action.

Q. Witness, what form did your life take in general now after the occupation of the Sudetenland?

A. I continued my practice in Kometau and due to all of these experiences I was happy, as after I had concluded my medical activities I could withdraw to my farm. Thus on the whole I lived and on this farm I planted about 2,000 fruit trees and devoted myself to the growing of plants. Since I turned my back on the city on the one hand I had my peace; on the other hand the connection with the farm, which was five kilometers away, was difficult because the other physicians were given gasoline but the NSDAP prevented me from getting gasoline. Thus during the night at 20 degrees below zero, centigrade, I had to go to my apartment on a bicycle. On about 24 January 1942 I received the news that on the 28th of January I had to be drafted into the army.

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Approximately, on the 25th or 26th of January my former wife called me on the telephone from Prague and requested me to help her because she was supposed to be sent to a concentration camp. I did not know how I could help her, but, of course, I promised her to come to Prague the next morning and we made an appointment in the cafe Daliburka.

When I made the preparations on my car in the evening for the trip to Prague the next day, a man in a dark uniform was in front of my door and asked to speak to me. He collar was open so that I could not see what insignia he had. He told me that the telephone conversation with my wife had been overheard and that if I should help my wife or go to Prague the next day, I would be shot in my office.

Thereupon I had to send a telegram to my former wife with the words, "Our meeting tomorrow impossible", and I signed it with the name of her sister because I could no longer risk putting my name on the telegram.

On the 27th of January I then went to my new office. A very shocking experience happened to me then. I received the farewell letter of a living dead person. My divorced wife wrote to me, "In memory of better days I do not want to leave the world without" — and then she returned the first present I had ever given her. I answered her with a letter which was eighteen pages long because this sad experience meant for me a complete reconciliation. Whether she received the letter I do not know because I don't know for sure when she was sent to a concentration camp. So I assumed that on the same day that I was drafted into the Army my divorced wife was sent to a concentration camp; I don't know to which one.

Now, the following situation had resulted. I, without any freedom of movement, was with the Army. My wife in a concentration camp, I did not know where, and my children alone in England; I did not know where they were either. With what feelings under those circumstances I was in the Army, I do not have to describe here.

THE PRESIDENT: Counsel, it is almost time for the morning recess. I would assume that this biographical

narration of the defendant Pokorny will be nearly concluded, will it not, outside of his military experiences?

DR. HOFFMANN: Mr. President, I have almost concluded my questions. I now, after the recess, want to submit a number of affidavits to support the statements of the witness Pokorny.

THE PRESIDENT: Very well. I would ask the interpreters a question. Referring to the document presented to the Tribunal yesterday, NO-2313 which was marked prosecution's identification 523, I would ask the interpreters if they have made any further study of the letters which are handwritten at the head of that document, and if so, what is the result of their study?

INTERPRETER WARTENBERG: Your Honor, the letters are V-r-s-t-b, Verstorben, the German word which means died.

THE PRESIDENT: Very well. Thank you. The Tribunal will now be in recess.

(Recess was taken)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

DR. HOFFMAN: Your Honors, I should now like to begin with the submission of affidavits from my Document Book I. I should like to point out that by mistake an exhibit number is entered in the document books. These numbers will not be correct.

The first document Pokorny No. 1 - I shall offer the affidavit of the sister of the defendant, Olga Hensel. It is on page 1. This will be Exhibit No. 1. I should like to read a few passages from this affidavit. On page 1 the second paragraph reads:

"I am the defendant Dr. Adolf Pokorny's sister. I was born on 17 April 1885 in Theresienstadt in Czechoslovakia. We have no other brothers or sisters.

"Our father was a military official with the rank of lieutenant colonel in the Austria of that time. We moved about a good deal within the Austro-Hungarian monarchy owing to my father's frequent transfers. We have lived in Dalmatia, Herzegovina, Bosnia, Galicia, and Bohemia. In this way we became acquainted with many peoples and languages. Aside from his profession my father spent a great deal of time on botany and was very much interested in agriculture. He had graduated from the Agricultural College and therefore retained a certain freedom of motion. We learned at this wish, supported by our frequent change of residence, aside from German and Czech, the Serbian-Croatian and Italian languages.

"My brother was drafted into the Austro-Hungarian army in 1914 and returned in 1918. He disliked going to war and returned a fully convinced pacifist and anti-militarist. Apparently the experiences of the war 1914-1918 also moved him to become a doctor, to help suffering humanity in this way."

In the same affidavit I should like to read on page 2, the second paragraph on page 2:

"My brother wanted to finish his medical studies as soon as possible and therefore worked very hard and intensively. For professional and

humanitarian reasons he enjoyed the particular support of important Prague professors, such as Professor Biedl and Ghon. He finally became assistant to Professor Kreibich in which capacity he also did scientific work.

"He strongly disliked anti-semitic excesses and did not participate in the riots against Professor Steinherz at that time, which caused special comment as he had been suggested as lecturer. Apart from this he married a colleague in Prague, Miss Lilly Weil, who was Jewish. As a result of the situation at the University of Prague at that time he also refused the position of lecturer, as in these circumstances one did not dare to appoint him as lecturer owing to the views of certain student groups. In 1925 therefore he went to Komotau as a doctor and accepted a position in the hospital.

"Our contact after this remained very close despite the distance that separated us, as we understand each other very well to this day owing to our joint pleasant experiences in the home of our parents.

"I frequently visited my mother, who lived with my brother in Komotau, and in this way maintained the personal contact with my brother and his wife, who lived in another apartment in Komotau."

THE PRESIDENT: Counsel, it does not seem to the Tribunal necessary that you read these documents which are simply repetitious in so far as the testimony of the witness, the defendant Pokorny, himself, is concerned. We have the documents before us and they are in evidence and will be considered, but so far this affidavit is simply repeating what the witness has himself said. It is not reasonable to suppose that this will be denied by the prosecution as to the history of his past life. I don't imagine that it will be, but if it is you may then bring further evidence. Read such portion of the affidavit that will be helpful to the Tribunal, but I would not encumber the record with matter that is merely repetitious.

DR. HOFFMAN: Very well.

Then as Pokorny Document No. 2 I offer, on page 6, an affidavit by Georg Baierle, who is now in Munich. This document will be Exhibit 2. The affiant has known the defendant for years and he repeats what the defendant Pokorny has already said about his life history and his attitude.

The next document is an affidavit by Dr. Rosa Schipek on page 8. This will be Exhibit No. 3. I should like to read only a few brief passages from this document:

"I have known Dr. Adolf Pokorny since the fall of 1917. At that time he was a soldier but had obtained leave to carry on his study of medicine. Together with him and some other colleagues (including Dr. Fritz Fischer, who later became Chief Surgeon of the Ophthalmological Clinic in Leipzig, and the present professor of ophthalmology in Bern, Dr. Hans Goldmann) I prepared myself for the examination for the doctor's degree and so I became more acquainted with him than with other fellow students from the lecture room. As a personality he was beyond reproach, a pleasant and helpful colleague, and most popular on account of his kind and cheerful nature. After completion of his term of studies he engaged himself in the field of dermatology and very soon became assistant physician at the clinic of Professor Kreibich. Up until the time of his nar-

riage to a student of roentgenology, we met at least once a week after the meetings of the Medical Association. He always remained the same; he never aimed at any position of outward distinction."

Then I offer an affidavit by Antonie Mueller which is on page 10. This will be Exhibit No. 4. I received this affidavit unsolicited as indicated by the introduction. It says:

"Through radio and newspaper reports it has come to my knowledge that one of the physicians indicted before the Allied Military Tribunal in Nuernberg is Dr. Adolf Pokorny who, born in Vienna, lived last in Komotau in the Sudeten district where he had his permanent residence. As I have known Dr. Pokorny since the year 1928, I consider it my duty to give you as his defense counsel a brief account of his previous private and political life, requesting you to use my statements for his defense if you find them to be in the interest of Dr. Pokorny."

The next document is an affidavit of a certain Julius Strauss on page 12. This will be Exhibit No. 5. Strauss worked on the farm of the defendant Pokorny. He was a miner by trade. He can give testimony which is not influenced by social or other considerations. The affidavit mentions the treatment of a Pole who worked on the farm of Dr. Pokorny. He also says that Pokorny did not belong to the NSDAP.

Then I offer the affidavit of Mrs. Marie Helmer on page 14. This will be Exhibit No. 6. Mrs. Helmer was a patient of the defendant Pokorny for a long time. They discussed conditions in the Sudetenland after the occupation and in this affidavit she has set down what she knows about the subject.

Then I should like to offer an affidavit by a certain Karl Hans Mueller on page 16. This will be Exhibit No. 7. Mueller speaks of the general treatment of Dr. Pokorny after the occupation of the Sudetenland and he repeats what Dr. Pokorny said on the witness stand.

I also offer an affidavit by Dr. Franz Peiker on page 18 which will be Exhibit No. 8. I should like to read two paragraphs from this affidavit because they have not been discussed yet. The affidavit reads:

"I have personally known Dr. Adolf Pokorny, who was residing at Rott on the Lech, since January 1945. Dr. Pokorny was known to me by name since September 1940. At that time I was for six weeks troop physician at Komotau, and Dr. Pokorny was known to me in connection with the fact that no patients with skin or venereal diseases were to be sent to him for treatment because he had, as it was called at that time, 'not a clean record' politically.

"Ever since I made the personal acquaintance of Dr. Pokorny, I have esteemed and respected him both as man and as physician. Our relations became friendly and intimate from the day when Dr. Pokorny learned from me that I, too, did not belong to the NSDAP and the former Sudeten German party of Henlein. During subsequent numerous political discussions Dr. Pokorny expressed to me frankly his democratic convictions and did not hide his anti-national socialistic attitude. From our many intimate conversations I also know of his continuous difficulties with the local peasant leader and other 'leaders' at Komotau which were due to his political attitude."

The next affidavit is by Mrs. Ilse Renatus on page 20. This will be Exhibit 9. This is a very brief affidavit. Therefore, I should like to read the essential paragraphs:

"I am surprised to see Dr. Pokorny - who lived as a sub-tenant in my house from 26 June 1942 until the end of 1944 - in the dock, when in view of his political attitude I should have expected to see him in quite a different place. Dr. Pokorny was surely anything but a National Socialist. When we listened to radio music in the evenings, I had to turn off the radio the minute news or other political reports came through. He did not want to listen to any of that humbug. I was surprised when he in his position as an officer expressed very freely to his wife and to me his adverse opinion of the Hitler regime. Jokingly I repeatedly told him that some day he would be dragged forth from our nice sofa corner and be put in jail if he did not keep his mouth shut. His answer was always, 'Renate, you won't betray me.'"

Then I offer an affidavit of Oswald Flachselt on page 21 which will be Exhibit No. 10. Flachselt was in the hospital which Dr. Pokorny had as a doctor in the Wehrmacht. I should like to read the first paragraph:

"Dr. Adolf Pokorny from Komotau has not been involved in politics in any way. Between 10 February 1944 and 10 October 1944 I was his first medical orderly and assistant in Hohenstein-Ernstthal. I have been an anti-fascist myself since 1929. I was a member of the Communist Party of Germany since 1938 and since 1 February 1946 I have been a member of the SED, that is, the Social Unity Party of Germany. I was closely connected with Dr. Pokorny and can well remember how he hated military life, how he had only the one desire to see the war ended and to return to his native country. Dr. Pokorny had already engaged me for his practice, since in addition to his practice as a doctor he was an enthusiastic farmer. In addition to members of our Wehrmacht we treated voluntarily and for humanitarian reasons about 150 prisoners of war, who came to us from the prisoners' hospital about one-half hour away."

The next document is an affidavit by Konrad Ritschel, on page 23, which will be exhibit 11. I should like to read one paragraph:

"During the war, in 1944 and 1945, I was three times in the hospital in Lichtenstein in Saxony and was treated there by the physician in charge, Stabsarzt Dr. Pokorny. Dr. Pokorny took the same interest in all his patients, he took the same good care of everyone, whether they were privates, officers or prisoners of war, no matter what their nationality. He was not one of those doctors who indiscriminately declared everyone fit for service and never dismissed people from the hospital before they had not been properly cured. He did not allow his superiors or the recruiting commission to interfere and thus had to overcome a good deal of opposition. In the hospital he was generally liked for his humane and professional qualities."

The next affidavit is by a certain Edgar Bauer. It is page 25. This will be Exhibit 12. Bauer was also stationed at the Hohenstein-Ernstthal Hospital, which was under the direction of the defendant. I shall read briefly paragraph 5.

"Dr. Pokorny avoided all 'ceremonial speeches.' He had others deliver those speeches and was never present at 'celebrations' of such kind.

"Dr. Pokorny and his wife, who visited him frequently, listened every day to the enemy broadcasts, especially the 'Voice of America', when this aroused suspicion, he asked anti-Fascist soldiers to listen in on these broadcasts, and to inform him about the news.

"Dr. Pokorny had voluntarily on his own initiative installed a POW station for skin and venereal diseases. Two or three times a week he took care of about 20 Englishmen,

20 Russians and 10 members of other nations."

Another patient of defendant Pokorny is a certain Wilhelm Walter Helmut Reinhold, who was given an affidavit which is on page 27. I shall assign Exhibit 13 to this affidavit. Here again I shall read briefly:

"I was a member of the Wehrmacht as a technical sergeant, and in February 1945, I came to the hospital at Hohenstein-Ernstthal in Saxony, which was directed by Dr. med. Adolf Pokorny. The hospital was later transferred to Lichtenstein-Callenberg. As a matter of fact, I was to have been qualified for discharge after about 14 days. I am sure that my release was intentionally prevented by the chief physician, which he personally substantiated, just as with me he kept numerous other comrades by this procedure from further duty. Obviously he was an adversary of the war, and especially an opponent of the then existing government. As an example, I mention that he expressly forbade the Hitler salute and the use of military titles. I had the impression that the whole hospital staff had been influenced by him in this sense. Dr. Pokorny had two radio sets in his private room in which I was often present. The one radio he used in the interest of the hospital for following the air reports. The other radio was permanently tuned in to the English transmitter, as I heard for myself. Dr. Pokorny even saw to it that these were transmitted to the other members of the hospital."

Finally, I offer an affidavit by Dr. Fischer, on page 29, Exhibit 14. Dr. Fischer was the doctor through whose hands Dr. Pokorny's promotion from lieutenant to captain had to go. He writes:

"As far as I remember, the promotion of Dr. Pokorny to Stabsarzt was due only to general seniority for promotion determined by length of service as usual. I do not know

anything of political or special military reasons for the promotion."

For the time being, your Honors, I have completed the submission of documents and would like to continue the examination of the witness, Dr. Pokorny.

DR. POKORNY
DIRECT EXAMINATION
(continued)

BY DR. HOFFMANN:

Q. Witness, can you tell the Tribunal something about the general political feeling in the Sudetenland after the occupation in 1938?

A. A description of political conditions in the Sudetenland from the beginning of the German invasion until the end will, of course, take on certain personal conditions for me. The entry of German troops was undeniably enthusiastically welcomed by the population. Some individual citizens had misgivings, however, when on the same day the tax notes were posted in the most remote villages. The subsequent events changed the picture rather quickly. First, the population was disturbed about the manner in which the Jews were driven out, and following the arrest of the Communists and Social Democrats, the 11 Jehovah witnesses in the city were also arrested. These political people were sent to a concentration camp. Then there came a surprising change, and even the National Socialists who had prepared for the overthrow, but who were fairly loyal to the Republic were also arrested. The civil service positions were filled by officials from the Reich, which was not welcomed by our population. We felt that the Sudetenland had been sold out. People came over from Saxony in cars and took cloth and coffee, etc. out of the district in large quantities.

The financial situation of the population changed suddenly. The Czech Korun was set at the exchange rate of one to ten. If a person had the sum of 100,000 Korun and was a rich man how he suddenly had only 10,000 marks. The complaints about this rate of exchange led to a change and the rate of exchange was made one to eight. Property ownership was arranged differently than it had been. Real estate was no longer rated at its true value, but according to the sale value, and agricultural price ceilings stopped higher income, but wages continued to rise. The most important point perhaps is that the population shifted. Czech workers in the beginning voluntarily came, then came transports of Poles, prisoners of war - for example in the neighboring city of Bruecks there were members of perhaps 27 nations working. In the village where I had my farm, for example, 50 per cent. of the population were foreigners. The resulting picture was an undeniably friendly reception of the Germans into Sudetenland, which soon gave way to a less friendly attitude. On this soil of general passive resistance we learned through the Poles and Czechs, through the Communists and Social Democrats released from the concentration camps things which were not known in the rest of the Reich. A whispering campaign began. People listened to the Allied radio and I considered it important that people on leave and the wounded who came from the Eastern front told that the Russian prisoners of war in the camps behind the lines and on transports had very high losses. Some Prague business men who had constant contact with Prague brought the news, more and more alarming news, that the Jews in Prague were being loaded into trains and sent off toward the East. There was much discussion about their fate, and even more whispering.

Q. Witness, what special news and rumors did you yourself hear after the occupation, especially during the war?

A. I think I have already answered that question.

Q. After the occupation of the Sudetenland and later during the war did you hear anything about sterilization?

A. Yes, we heard of the legal sterilization carried out according to law in Germany, and I remember that the execution was often discussed by our doctors in the Sudeten Gau. At the end of July 1941 in the months of August or September I had a private patient who came from outside. His name was Voight. I do not remember his first name exactly.

Q. Please spell the name?

Q Please spell the name?

A V-C-I-G-T, his first name was Karl or Hermann, or perhaps both, I had no reason to fill out the index card. At the time, he told me about Himmler's racial ideas and the proposed sterilizations to be performed, primarily on members of undesirable races, Jews, Gypsies, etc. Of course, I cannot remember the exact wording of our conversations, that was seven years ago and in the seven years I have experienced a great number of serious things. I am therefore forced to tell you the general impression that I gained at the time. He told me that experiments were performed to this end and the executions of these measures had already begun. The means of sterilization was operations and x-rays.

He came to speak of this subject after reading an article in "Umschau", to which I had a subscription. He happened to pick up this magazine as he was waiting for me. Since a certain degree of confidence developed in the course of the treatment and since he was from out of town and did not know my political reputation, he was possibly more open with me than he would have been with someone else. On the other hand, I could not determine what position the man held. I observed he was extraordinarily well informed about conditions in Berlin, especially the important personalities and especially Himmler.

Q Witness, in what connection did this person tell you about intended secret sterilizations?

A I have seen from the documents that he presented it in a somewhat different context than was actually the case. He told me of these proposed measures in connection with settlement in the East. He went on the assumption, whether this was his own idea or whether he was giving me this as news from Berlin, I do not know, but he said that the German family had an average of two children, whereas the Slavic people had eight to twelve children. I had to conclude from the conversation that Himmler wanted to apply this mass sterilization to various masses, especially the Slavs.

It was not possible for me to check this information, but I felt that there was a great danger here and if I may refer to what I said before, the situation in which we were at the time with the illegal spreading of news by whispering, propaganda, etc., was the only possibility to learn the facts. We were inclined to believe any news that we heard. He also mentioned caladium and under the suggestive influence of this article, he imagined that the effect desired could be obtained with one injection, quite unnoticed. I believe that he emphasized the apparent advantage of mass use. I connected these statements with the Eastern theater of war. As I have already said, I thought that the big losses, of which we were informed, of the Russian Prisoners of War behind the lines and in the camps might be connected with this program. This racial hatred of all Slovaks and especially Jews and half-Jews, as well as various hatred illusions, I thought I had to interpret that these intentions were to be extended to them.

Q Dr. Pokorny, what effect did these statements have on you; what was your frame of mind when you heard them?

A Because all orders came from above in the Third Reich and absolutely had to be carried out, there seemed to be nothing to be done about it. Of course, I was indignant and shocked and was in an actually desperate frame of mind. At first I tried to dissuade him; I pointed out, for example, how impossible it would be to import, and I tried to make the thing ridiculous and I said that I doubted these statements of his. He answered, I should believe him, he had it directly from Berlin. He was in an important position with the SS and he made me promise to keep it a secret and he pointed out the consequences of an indiscretion. I remember that he said to me that he would tell Himmler about this matter, about this caladium. I was in a rather difficult position. Later when I thought it over, I said I would do so myself. One may wonder that on the basis of this relatively superfluous news there was such a violent reaction on my part, but his

credibility was proven by a rather remarkable coincidence; he told me that the Einsatzstaebes of the S.D. were already prepared for Tiflis. I did not know if the man was crazy or not, but look where the German troops were at that time and where Tiflis is located.

On the next Sunday, I visited an estate owner, whose wife was a Czech, whom I had released from prison shortly before that by a trick and he showed me a draft card as an agriculture worker, as Sonderfuehrer or special leader. He said, "Look at this; the place where I am to work is Tiflis." From this coincidence, I concluded that Voigt was well informed. I also concluded from this and other remarks that he was not in the SS but in the S.D.

Q Witness, did this impression of this conversation give rise to any other plans or thoughts in you?

A One can understand that I began to think over how these intentions of Himmler could be interfered with or sabotaged. Voigt's statements had directed my attention to the article in the "Umschau" and the periodicals, but critical reflection made me realize that this idea was unscientific and impossible of execution, that the work and the experiments on which the article was based had perhaps been done on false hypotheses, that the conclusions did not quite correspond to the facts; and so I got the idea that this impossibility of execution might be a way out.

Q Witness, now what did you want to do about this article in "Umschau?"

A According to the situation in 1941-1942, the possibility of sterilization by drugs in general and with caladium in particular, as I shall show later, was quite impossible. Since the other two methods could be effective, I saw a way out here and a possibility of helping.

Q Now, what did you do?

A First of all I procured the first work on which this publication in "Umschau" was based, from the Magazine for Experimental Medi-

cine. I studied the literature, I found nothing about caladium, but I became more and more convinced that, as I had said, sterilization by drugs in general and by caladium in particular would have no effect whatsoever, even if this idea were to be taken out of my hands for some reason or other.

Q Witness, do you have Document Book 6 there? Please take your letter, NO-035, Exhibit 142, page 3 in Document Book 6; explain to the Tribunal whether you wrote this letter and if so, why?

A. Yes, I did.

Q. Now, to go into the details. First of all this letter mentions the name of Professor Hoehn. Who was Professor Hoehn? How did you come to mention him? What does he have to do with this letter?

A. I came upon him by accident. I treated the nobility of our district too and I was personally acquainted with some families. I had a villa at Rothenhaus. I heard that there was a guest at the castle who was a friend of Himmler. I imagined that a friend of Himmler who was a guest of a prince would be an influential person, who would be suitable for taking information to Himmler and exerting influence on Himmler and I determined to take advantage of this opportunity. I went up to the castle and I had someone whom I knew take my name in. I could not learn the name of the gentleman in question. There was remarkable secrecy about it. When he received me, I asked him whether he would take a letter to Himmler and I told him in broad outline the contents of the letter, but I referred to the high losses of the Russian soldiers and I motivated the contradiction in these losses with the effect that we needed workers for reconstruction. I repeated this idea very urgently and asked him to tell this to Himmler. I imagined that this suggestion I was making was to counter-balance Himmler's intentions. He promised to do so and I asked, "What shall I do with the letter?" He said, "Send the letter to Professor Hoehn in Berlin," and he gave me the address, but I have forgotten the address in the meantime. I don't know whether that was really Professor Hoehn or not but I think so. After a few days I dictated the letter; it was sent by mail. The important thing was that I had to give Hoehn the impression of credibility so that he would influence Himmler to that effect.

Q. In your letter you say, "Led by the idea that the enemy must not only be conquered but destroyed." Do you find that?

A. Yes.

Q. Where did you get this expression from?

A. I either heard this somewhere or read it or got it from the

radio, but whether it was told me that it was something Himmler had said I don't remember. In any case I considered these words suitable, considering Himmler's character, to get his attention.

Q. Why do you write that you are "writing to Himmler as the Reich Deputy for the Consolidation of German Folkdom"?

A. It is a mistake. I learned about that here by accident. The title is incorrect; it shouldn't be Deputy but Commissar. I knew so little about titles in Berlin that I made this mistake. I selected this title because I wanted to get Himmler's attention concentrated on the East.

Q. Witness, why did you enclose the articles of Madaus and Koch in the Magazine for Experimental Medicine, and also the article of Madaus in the "Umschau"?

A. The article in the Magazine for Experimental Medicine and even more the article in the Umschau, which is a semi-scientific work, had enormous suggestive effect by the inclusion of various quotations, so that I believed I should take advantage of this suggestive effect on Himmler. Himmler's inclination toward biologic homeopathy and other mystical ideas was perhaps not generally known but had long been known to me. These ideas were at any rate discussed among doctors, because these experiments, such as for example those in - I believe it was the Gustav Wagner Hospital in Dresden, the magazine Hippocrates, the newly published book by Brauchle - all referred to the new direction of thought. These sentences which had a particularly suggestive effect are underlined in red to bring them out.

THE PRESIDENT: It would seem that these preliminary discussions are unduly protracted. Can you not expedite the witness with that part of the story which deals indirectly on the charges upon which he is being tried before this Tribunal.

DR. HOFFMAN: Mr. President, I believe that the explanation which the witness is giving of the various terms used in this letter is important in judging the matter. Of course, I shall submit to the wishes of the Tribunal and bring this down to a minimum.

THE PRESIDENT: Just condense the matter as much as you can, counsel.

BY DR. HOFFMAN:

Q. Witness, in the first paragraph of your letter you used a number of expressions: "If it were possible to obtain a drug which after a relatively brief time might produce unnoticed sterilization in human beings, we would have a new effective weapon." Then you write of three million prisoners of war, using the term "Bolshevists". Will you please tell us why you used such terms?

A. These few sentences include all the demands Himmler would make of such a drug, the short time, the imperceptible effect, and the effective weapon; that was the demand of the time, a new effective weapon. My own plan was built up on delay, to be achieved through the necessary preliminary experiments and so forth.

Q. I want to ask you about the second part of your letter, where you say Dr. Madaus was not allowed to make any further publications of this nature, where you speak of the growing of the plant which can be easily grown in hot houses, and you say that immediate research of human beings, criminals, should be carried out. You suggested that the chemical structure of the effective chemical substance be determined. Will you please explain how you came to say this?

A. I believe the most important thing is this picture of three million prisoners of war. This was to have a suggestive effect on Himmler; unfortunately it has had the same effect on the prosecution and on the press. As I say, I learned of the whole thing in connection with the settlement in the East, and I was thinking of the high losses of the Russian prisoners of war in the East and therefore I coordinated these various concepts. I need not have used the words "prisoners of war" at all; I could have said Russian civilian population, or gypsies, or Jews, or something else. The word "Bolshevists" I need not have used either but I think I chose it because I think I assumed that Himmler used it and the number of three million - that was chosen to make my suggestion as noticeable as possible. All these expressions were aimed at one goal,

that is, to make the suggestion as plausible as possible. I thought the whole thing over for three or four weeks. The suggestions which I made are absolutely impossible for execution from the scientific as well as the practical point of view. The whole idea was based on their being impossible in practice. To take individual sentences out of a context of course distorts the picture. One must remember that the plan originated by my asking myself: how can I make the idea plausible.

You ask why Kadmus was not publishing any more articles. That was probably a reflection on a remark of Voigt's who was astonished that such important scientific information was published. "The enemy listens" was a political slogan at the time which was posted on every street corner and printed in all the newspapers. The political tendency of the latter consists of one slogan after another. That was just about all I knew positively about National Socialism.

Q Witness, do you agree with me that this letter, if it had been seriously meant and had had practical success, would have brought misfortune on many people?

A I was convinced that all the suggestions were absolutely impossible of execution but that they were so camouflaged that one would have to fall for them because they seemed to contain an enormous advantage. I was convinced that even on a small scale nothing could be done with the idea. There was a certain risk, of course, but in view of the expected effect one would have had to take that chance.

Q Witness, is it true that your explanation of this letter had been distrusted? Did you not have another reason for writing this letter?

A There are several possible reasons for writing such a letter. For example, a declaration of loyalty which is understandable since I was in a rather unpleasant situation politically. But I have already said that in 1940 my political persecution, or inconvenience is a better word, had stopped and I had no cause whatever for a declaration of loyalty, for if I had followed National Socialist ideology, then, after 1938, in view of what I have described, I would certainly have been cured.

There were no financial reasons either. My practice was so big at the time that I would have been glad to give up half of it. Besides I had my income from agriculture and real estate. Another possible reason would be that I was ambitious, that I wanted

position - as the press said, misdirected ambition - but I believe that is refuted by the fact that I gave up my university career. I never wanted outward honors. I had no more fears about being drafted. I had obtained the news that I was to be taken as an Oberarzt Lieutenant. Second, because of a heart defect after typhus I was not qualified for military service.

A s another reason I should like to point out that there was no possibility of attempting to prevent Himmler's intention; all one could do was try to get him on a false trail. In a democratic system one can go to the press, or I am sure there are other ways. In an authoritarian state we had no other way than the one I took.

Q Now, witness, what did you think would happen?

A Because of the violence of the letter and the apparent specialized knowledge and reliability apparently expressed by this letter, I thought that Himmler would take up the idea, but I did not hear any more about it and I thought that it had been realized how impossible the idea was of execution.

Q Did you hear anything later on?

A Yes, in the spring of '42 - I can't say exactly when - I received an inquiry from a Berlin office, I think it was an SS office, inquiring who produced the drug. I remembered that because I noticed that they were inquiring about a drug, and I had not said anything about a drug but about an experiment. That there actually was a drug, caladium D-1, I did not know. I do not have the letter either.

MR. HARDY: Your Honor, I request that the defendant repeat that last paragraph as some of it didn't come through very clearly to me, when he was referring to the drug.

THE PRESIDENT: Will the defendant repeat the last sentence of his testimony?

THE WITNESS: I said that I had not mentioned a drug but an experiment; that there actually was a drug, caladium D-1, a

homeopathic preparation, in existence at that time I did not know. That is mentioned in the yearbook of the Madans Company for 1940 which I did not know. I shall speak of this drug later.

BY DR. HOFFMANN:

Q Then you received an inquiry, witness?

A Yes, and I answered it.

Q Why did you answer and what did your answer say?

A At first I did not intend to answer, or at least I let a long time pass. I knew that the idea had taken hold, so to speak. I thought, as it were, as a beginning of the sabotage, to postpone this answer as long as possible.

Q And how did you come to answer?

A I met Voigt quite by accident at the railroad station in Weiberg between trains, and the repetition of his story and the plans and his opinions in an even stronger form made me think that it was time to make the drug known or rather the firm. Otherwise my whole plan would have been pointless.

Q Witness, you wrote this letter. Can you remember what this second letter said?

A It is difficult to say. Because of the length of time, I had forgotten the details of the letter and the article. Only after seeing the letter and the article again was I able to reconstruct. Besides it is hardly possible for me to distinguish what I wrote or thought or said at the time or read or what Voigt said.

Q Then you can not tell us anything accurate about the second letter?

A No, but I know that I told them the name of the firm.

Q Now, witness, aside from writing these two letters did you give any caladium; did you perform any experiments; did you do anything else; or was your activity limited to these two letters?

A I never owned any caladium. I did not have a hothouse on my farm. I never had any experimental animals. I never performed

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any such experiments on human beings or animals. I wrote only these two letters on the basis of my reflections at my desk.

DR. HOFFMANN: Mr. President, I should like to show the defendant a document, but perhaps this would be a good time to recess?

THE PRESIDENT: Very well. The Tribunal will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 25 June 1947)

THE MARSHAL: The Tribunal is again in session.

ADOLF POKORNY - resumed

DIRECT EXAMINATION - continued

BY DR. HOFFMANN:

Q. Your Honors, I said already before the recess that I shall submit a document to the witness, Dr. Pokorny - one of the Prosecution documents. It is document NO-039 in Document Book 6 on page 16. It is the letter which the Deputy Gauleiter wrote to Himmler in the caladium matter. Witness, do you have this letter?

A. Yes.

Q. Witness, from that letter you see that a Party office expressed the same views which you expressed in your letter. Now, I would like to ask you were there any connections between you and this gauleiter of the lower Danube?

A. No.

Q. What was the distance between Komotau and Vienna?

A. About 700 Kilometers.

Q. During the years 1941 and 1942 were you ever in Vienna?

A. No.

Q. What was said of the gauleiter of the N.S.D.A.P. in charge of the Sudetenland?

A. Reichenberg?

Q. Witness, can you explain even if it is only a supposition how this letter may have come about?

A. Since there were no connections whatsoever between me and the gauleiter I can only make hypothetical constructions. Gerland was deputy gauleiter and if I have been

informed correctly he had a very high position in the SS.

Q. When did you find out about this?

A. I heard that here. Therefore, I suppose that it is possible on the basis of his position he had some relations to Himmler or to his office and therefore he found out about my letter.

Q. Witness, continue.

A. There are some points which would justify this conclusion for he refers to the Madau Journal of 1940 even though it is apparent from the letter that he knew the two other papers, too. Then he quotes the scientific part of my letter in such a similar and close form that the suspicion is at hand here that he knew my letter and the most obvious thing is the same word that I thought about for a long time the word perspectives. That is also used in his letter. Moreover, it is apparent from his letter that he was also subject to the subjective influence of this letter because he believes in the homopathic effect of this drug. Also he writes that large numbers of experiments were carried out on rats, guinea pigs, and dogs. And, there is no record in the paper of experiments on rabbits and dogs, only a hint which is not proved. He also writes the old culture of the Priest's profession which have to be followed up or the sentence that through the feeding of Schweigrohr, that is caladium synonymous to what the natives tried to bring the enemies to extinction. This is evidence that he was subject to the influence of this paper. Thus, I am of the opinion that this letter is plagiarism and Gerland due to that became an aide by inadvertently reporting this matter to such a high office.

Q. Witness, can you still tell the Tribunal today for what reason you as a physician, after having seen the papers

of Madaus and Koch which you included in your letter, came to the conclusion that an experiment with caladium would have no practical success? Just answer this question with yes or no.

I was convinced that nothing would happen with caladium. That it is impossible to sterilize a human that way and even in small amounts that is, in small experimental series, it is almost impossible to work with caladium.

Q. May it please the Tribunal, before I continue to question the witness I first want to introduce a number of documents from my Document Book II. First Document Pokorny 16.

MR. HARDY: Your Honor, I don't have Document Book No. II. I went through all my document books this morning and I am unable to find Document Book II.

DR. HOFFMANN: I only have it in German.

MR. HARDY: I can't follow in German very well, your Honor.

DR. HOFFMANN: Your Honor, I submitted my Document Books as it should be done and I regret very much that the Prosecution did not get one but I shall be able to change the situation by having an English book fetched.

MR. HARDY: He can proceed with his documents, your Honor and I can render any objections later if I desire to do so. I can follow him.

THE PRESIDENT: Very well, with that understanding counsel may proceed.

DR. HOFFMAN: I now submit document #16, Document Book 2, page 31. There are four photostats of photographs ...

THE PRESIDENT: What is the exhibit number you assigned to this document, counsel?

DR. HOFFMAN: #15, Your Honor.

They are photographs from the Manual of Biological Remedies of the division by Dr. Gerhard Madaus from the year 1938. Photographs have been taken out of the book and have been certified by a notary.

The next document I introduce is Document #17, page 34. This is the monograph by G. Madaus and Fr. E. Koch, "Studies of Animal Experiments Pertaining to Sterilization by Medication." This is the monograph which is the basis of the article in the "Umschau" and which was also inclosed in the letter by Dr. Pokorny.

The next document I would like to submit is Document Pokorny #18, Exhibit 17, page 49. This is a monograph " 'Magic Plants' in the Light of Experimental Research" in "Die Umschau". This is the document which was also inclosed in Dr. Pokorny's letter.

As Document 21 I submit excerpts from Clinical Endocrinology, a text book for physicians and students, by Arthur Jores, page 58. This will be Exhibit #20.

THE PRESIDENT: Counsel, what has become of exhibits numbers 18 and 19? Are you skipping...

DR. HOFFMAN: 18 and 19? - we have exhibits numbers 17 and 18. No, excuse me, Your Honor, I have not submitted 19 as yet. I submitted Documents 18 and 21.

THE PRESIDENT: And you assigned to Document 21 Exhibit #20, as I understand you. It should be Exhibit #18, should it not?

DR. HOFFMAN: Yes, your Honor.

I then submit Document Pokorny 22, page 59. It is an excerpt from the text book of General Pathology and the Pathological Anatomy of H. Ribbert, and by Dr. Karl Sternberg. This is Exhibit 21.

THE PRESIDENT: That should be Exhibit 19, Counsel.

BY DR. HOFFMAN:

Q: Yes, I beg your pardon.

Then I submit Document 23. This is Exhibit 20, page 60.

Witness, before you were already speaking about the application of caladium in large and small doses. Would the administration in small doses have anything to do with homeopathic application and what was your attitude toward homeopathic medicine in 1941?

A: After modern medicine had put its knowledge on an absolutely safe basis, on the basis of experimental research, to that modern medicine today can be compared to mathematics. I, therefore, never accepted the theory of the doctrine of homeopathic medicine which does not have an experimental basis. That certain successes were achieved by homeopathic medicine I attribute to the fact that the low concentration of medicine - let us say D-1 and D-2 -- are the same as those in medical theory and, in some cases, they are even larger. The next concentrations, D-3 and D-4, are in accordance with the smallest amounts used in pharmacology and the rest of the concentrations, up to D-100, are not based on any experimental basis. This is only a broad statement. A great deal could be said about it.

Q: Witness, in 1941, did you know the firm of Madaus and Koch in Dresden-Radebeul? Did you know its name or did you have any relations with this firm?

A: I know only the name of the firm through the advertisements which were sent to me and because I examined the drugs on the basis of these advertisements and was not satisfied with the results.

Q: Witness, in 1941, when you wrote this letter, did you see from the papers of Madaus and Koch which dealt with caladium - did you see in that an attempt on the part of the firm to open up a new field for homeopathic medicine for themselves?

A: From the report, it is clearly visible that the firm had the

intention in regard to inner secretory diseases to treat them with plant drugs and now wanted to bring out a number of medicines for this field. Perhaps it would take up too much time if I would quote the appropriate places from the paper, but perhaps, in order to clarify the matter once, I may quote in the paper on experimental medicine, page 83, it says that vegetable materials - hormones

Q: (Interrupting) Witness, please state the page where it is written.

A: Page 83.

THE PRESIDENT: Witness, is the quotation which you propose to read very long? If it is, I would suggest that it be prepared and put in as a document.

WITNESS: Mr. President, I wrote down, what I thought at the time - thoughts passed very quickly. Of course, this description is somewhat involved. If it is desired, I can submit a scientific document as a sample. However, I would like to ask that I may refer to the main points.

MR. HARDY: Your Honor, this document he is referring to - the translation is in our document books. If we could get the page number we should have the exact translation of what he is reading.

THE PRESIDENT: All, counsel, the Tribunal has had the document books and has examined them and will examine them again. Why is it advisable or helpful for the witness to repeat what is already before the Tribunal and in the document book? He can call attention to certain matters if he considers them important, but I see no object in reading what we already have before us in the case.

DR. HOFFMAN: Mr. President, I agree with you entirely. Only, it seems correct to me that the witness should explain what his thoughts were at the time when he supposed that these drugs would be unsuccessful.

THE PRESIDENT: That is entirely proper, counsel, but I see no object in re-reading what we already have before us. If he will give us the page of the document book where this is found, we can follow his explanations from the document book.

DR. HOFFMAN: Dr. Pokorny, thus, as you have heard, it is not expedient to read that part from the document. Instead I would like to repeat my question.

THE PRESIDENT: Well, counsel, first give us the page and volume of the document book where we can find this document to which his reference is made.

DR. HOFFMANN: Mr. President, I cannot give you that figure, I would like to have the witness state the page number.

Q From what page did you quote?

A This is somewhat complicated. Of course, I could not refer to the English Document Book, but I referred to the original pages, and since the first paper is the basis of experimental medicine, I regard it as Description I, and the paper in "Unschau" as Edition II. Therefore, I cited the page numbers of these original documents of the quotations I wanted to read, which are included in my German Document Book. The page numbers in the English edition I cannot state.

DR. HOFFMAN: Mr. President, I hear the page numbers in the English Document Book are the same as in the German.

Q Witness, give the number of the pages in the German Document Book, the number of the pages?

A In the paper on experimental medicine it is Document 14 in the Document Book, and that is on page 83.

DR. HARRY: 46-A, your honor's book.

THE PRESIDENT: The Witness may proceed with the explanation.

THE WITNESS: Shall I quote the paragraph?

Q Would you please return to my question? I asked you in the experiments which form the basis of the papers could you draw any conclusions?

A I could draw the conclusions that the firm prepared drugs from the treatment of inner secretion disorders. Part of these are venereal disease preparations, that is drugs for the sexual sphere. This is also apparent from the paper, that the firm was inclined to introduce Caladium as a sexual drug. I already stated that in regard to the drug Caladium D-1, which had already been introduced at that time, it was not known to me.

Q Thus from the very beginning for those economic reasons was the scientific value of the work doubtful for you?

(no response).

A The scientific value or the value of the drug Caladium D-1 I doubted later on altogether, for the simple reason that the authors state that they carry out experiments with mice which brought about sterilization in 10 mice, but these results, however, could not be produced legally. At that time the experiments with the rats and had not yet been carried out, and it was considered somewhat daring that on the basis of this scientific basis to introduce a drug to increase potency under the name of Caladium D-1.

Q Witness, is a homeopathic basic principle applied in these papers and from your point of view of classical medicine what is your attitude?

A Before answering this question I would like to say since I did not know Caladium D-1 I considered the entire paper as an advertisement, so to say, that is a preparation for the introduction of a drug. The homeopathic principle, the reversal, that a drug in enlarged dosages is destructive and in homeopathic dosages is productive, is cited by the authors, and I am under the impression that due to the allegedly destructive effect of Caladium, just because of this homeopathic principle of "the reversal" effect, the pharmacological effectiveness of Caladium D-1 is supposed to be proven.

Q Witness, what doubts did you have in detail as to the scientific basis of the work?

A After the second paper in the "Umschau", that is a semi-scientific lay journal, which is based on the same principles as the scientific paper in the journal for experimental medicine, certain contradictions became obvious in both papers. I therefore doubted the value of the work. This assertion I would like to support by two quotations. The question to what extent the male sperm can be damaged by a poison so that the progeny would also be damaged is a concept in medicine which used to be called germ spasmatic damage. This was a question of conflict in hereditary syphilis and T.B. and with opponents of nicotine and alcohol, and for all students of eugenics.

Now, in the experimental medicine this first paper, page 75 of the original, I quote:

"Whether the progeny of a male for only a short time with Caladium animal, which had been treated, will be damaged. Since it is outside of our paper we cannot decide with certainty. We only want to state that one female normal rabbit in spite of good care in the stable and good food produced living animals for one day.

MR. HARDY: He is quoting now from the document book and I haven't been able to catch up with him and find the quotation. I would like to use this in the course of cross-examination and follow this pamphlet, so if you will hesitate while we find this page I will appreciate it.

THE PRESIDENT: Can the witness refer to the number of the page in the German document book?

THE WITNESS: Mr. President, I stated page 75 of the original article.

DR. HOFFMANN: Page 42 of the Document Book II -- correction, it is page 41-A.

THE PRESIDENT: You say it is page 41-A?

THE WITNESS: Oh, Yes, Your Honor, it is page 41-A to page 42. Shall I repeat?

Q No, please continue.

A This is on page 42, page 41-A, the second sentence: "It can only be mentioned that a normal female rabbit gave birth to young which lived only one day despite the best of care after having been mated with a male, which had not been treated with Caladium a sufficiently long time."

I would like to add -- as an explanation that young animals which live for one day are a daily occurrence with rabbits, and this second version --

Q What page?

A Page 632, at the bottom of the original document.

Q Page 632? That cannot be correct.

A Yes, it is.

Q What page?

A 632.

Q You must be mistaken, witness?

A Oh, excuse me. Page 602.

DR. HOFFMANN: It is page 52 of the document book, Your Honor.

THE PRESIDENT: Proceed, witness.

THE WITNESS: I quote: "It could not be finally determined whether any ill-effect is produced in these young ones, which descend from a male, which has been treated with caladium only for a short period of time, however, it seems probable on the basis of the results obtained to date."

Such an important conclusion, which is treated in such a superficial manner and categorically stated hardly seemed to be correct, to me.

BY DR. HOFFMANN:

Q: Witness, the question of sterility seems to me to be one of the most important factors in these animal experiments. From the treatment of this question by the authors of these papers; did you gather anything from your negative attitude?

A: I do not want to quote the sentences which refer to this in order not to take up too much time here, but I only want to refer to the charts which are on pages 71 and 75, as Chart No. 1 and Chart No. 4-A of the original, that is on page 75.

MR. HARDY: It might help matters somewhat if the defendant will refer to the document numbers, as he refers to the various pages and charts. He has jumped from one document to the other. That has confused us considerably and the record will not show he is referring to Exhibit 16 as one exhibit is opposed to the other. This refers to Exhibit 17, which is one part of the testimony and refers to Exhibit 16 in the other part. This refers to page 71, which is the pamphlet, which I believe is Exhibit Number I confuse myself. If he will refer to the exhibit numbers, it will help us a bit.

THE PRESIDENT: Counsel, the Tribunal does not want to prejudice the defendant's case, nor interfere with the orderly procedure, but the manner in which you are proceeding is certainly confusing. Could

it not be possible for the witness to state his conclusions and later on you can write a schedule as to the page and number on which he bases the conclusion. I am merely suggesting this, as I do not want to interfere with the presentation of your case, but this method of proceeding is certainly confusing.

BY DR. HOFFMANN:

Q: Witness, you can very well state your final conclusions and don't always refer to the pages, you can refer to them quite generally.

A: Mr. President, that is what I meant before. The paper is Document 14 from Experimental Medicine, the second from "Die Umschau" Document No. 18 is the commentary and I will make the comparison between the two papers in writing if I may be permitted to do so to draw the final conclusions. Then I would, in accordance with your wishes, Your Honor, be able to admit my final conclusions, in writing and state the page numbers.

Q: Those scientific references I shall then submit in the form of an affidavit, Your Honor.

THE PRESIDENT: That will be perfectly satisfactory. Proceed, witness.

THE WITNESS: The paper asserts that sterility in human beings may be permanent in the male and in the female it would only bring about a temporary sterilization. If, however, one takes a look at the charts on pages 71 and 75, one sees that of the male animals four remained, two of these die, one is killed. To evaluate the length of sterility only one single animal remains and this animal is observed for 44 days. On the basis of such an experiment one cannot draw any conclusions to the effect that a preparation brings about a permanent sterilization.

With regard to the female animals, of twelve animals, five die of poisoning of the genital, three bring no results and three remain. These three animals are observed for from 40 to 45 days, a span of

time which is certainly not sufficient to be able to make any statements about the length of sterility, because the ovary damaged by the poison needs at least that length of time in order to divert itself of this long term chronic poisoning by the drug or to recover from it.

BY DR. HOFFMANN:

A: Witness, did you consider the number of the animal series sufficient to clarify such questions, or from the scientific point of view was it necessary to experiment with more animals?

A: The first experiment with male animals was carried out with nine animals, three of whom died and only one remained alive. I already mentioned that. Five were killed.

Of the female animals, a total twelve, there were four failures, five died of chronic poisoning, at least that is how I regard the caladium effect, two were killed and three remained alive, these small numbers thus will in no way prove anything.

I only want to quote the number of animals which are necessary to develop a test. At least 40 animals are necessary really in order to carry out the test.

Q: Witness, Walrus carries out a control experiment with Knollgrass; do you know what that is and do you think such a control group is convincing?

A: After I described the Caladium effect as an unspecific effect of leucocydes, another poisonous plant would have to be used as a control. Knollgrass is not poisonous, therefore the means of comparison is lacking.

Now, the drug was administered by means of injection or orally. By having it administered orally, it is nothing else but feeding and if it is administered as an injection, it is very dangerous because it is not sterilized. Therefore, the control animals who are given Knollgrass die as follows: one male rat gets 50%, if you have two.

Of the female control animals, there was originally three, all of them died, that is 100%. One cannot work with such numbers.

Q: Fitness, in the paper you cite the concept of sterilization by medicines; please make some remarks on that subject?

A: The explanation of sterilization by medicines is a concept which was known already before this paper was written. Actually it even originated in 1907 when Hippel and Badenstecher as subsidiary findings put this phenomenon, Halbus and Koch, however, talked as if they had introduced this concept of the medical literature. It is possible that I misunderstood them in this respect, however.

Q. Witness, do you find quotations in the paper which did not sound scientific?

A. In scientific papers sentences like the following sound somewhat peculiar. In both papers, for example, they write the natives administered caladium in large amounts to their enemies in order to extinguish their potency and I cannot imagine how one can administer large amounts of a poisonous plant to any one, especially to an enemy. That is a sentence with a suggestive effect. Furthermore, in the second version on page 600 of the original, the authors speak of the unconscious eating of this plant among the natives and that they regarded the plant as a welcome means of secret elimination of inconvenient enemies. They write also for that purpose they also poison their arrows with the sap of the plant and administer the poison to the natives by the wound made by the arrow. This is a very direct comparison.

THE PRESIDENT: Counsel is it not possible to ask the witness questions concerning his conclusions. The Tribunal is satisfied he has read very extensively on this subject. Can he not give in a more concise form his conclusions on the matter that might be pertinent to the inquiry than by these lengthy references to books of poison arrows and so on? I fail to see any materiality to it, that it has any probative value whatsoever. I don't want to interfere with your case as I said before but cannot the witness begin with his own work and his own conclusions, what he did or did not do?

DR. HOFFMAN: Your Honor, the witness as I have already stated, did two different things, that is, he wrote two letters, that is everything he did, he testified to that effect, and I would like for him to show and to describe why at that time when he studied the papers he was of the opinion that nothing could be achieved with this caladium. That is why I am asking him about it. However, I do not want to go into long scientific discussions. I only thought that these

statements representing what he felt at the time when he realized the scientific failure of this work and he told me that, and he also wants to tell that to the Tribunal.

THE PRESIDENT: The witness can very properly state what scientific works he read and give them and put in any reference to the scientific works that you desire and the Tribunal can read them and examine them and it seems that the witness could then state from his studies he made and his examination of these books, and we could then have them in the document books, that he reached certain conclusions.

We will have a recess in a few moments and you can consider the matter further but the witness is not enlightening the Tribunal by the discussions he is giving at this time, as I said by poison arrows and certain causes of this drug, and it seems to me that the matter might be shortened with benefit to all concerned, including the defendant.

BY DR. HOFFMAN:

Q. Witness, I should like to ask you the following question: At the time did you consider how much caladium would be needed in order to sterilize a number of human beings, perhaps even the figure of 3 million which you mentioned in this letter, always with the prerequisite that it would have been possible at all.

A. Dr. Hoffman, there were a large number of reasons which convinced me that the conclusions of the authoris could not be correct. My letter is based on that fact. Now a large number of very important and essential points should be mentioned and I would like to add briefly that after all I have been waiting in order to speak here now at this moment ten months in prison. I sent my letter on the basis of medical consideration. Therefore, the medical defense is my part of the justification. Now in order to answer your question. From the time of the treatment to which the animals were subjected, in one case 40 to 90 days, in another case 77 to 218 days. That corresponds

to one-third to one-half of the length of the life of a rat. I only mention this to show how enormously long the times were during which the animals were under treatment and that this cannot be applied to a human being at all because otherwise they would have to be treated twenty to thirty years. During this time two dosages results. Each animal received a 0.5 cc of fresh sap daily, the rats weigh 150 to 200 grams each, that is they were young, because a grown animal weigh 300 grams, and if one calculates this dosage and applies it to human beings, whose average weight of 70 kilograms, the theoretical sterilization dosage which results for a human being is 13.79 kilograms. In the second dosage under the same conditions a necessary amount of 31 kilograms results. Since fresh sap can neither be injected nor otherwise be used for human beings, it can neither be sterilized nor preserved --- it has to be prepared pharmaceutically because it involves the danger of tetanus. Therefore, the use of raw material would even double the amount, thus according to the dosage one it would be 27.5 kilograms, and according to the second 62 kilograms. Since I wrote in the letter it is very easy to raise them in hot houses, to supplement the calculations I would like to go into that statement, leaving out the consideration of the difficulty of raising tropical plants.

MR. HARDY: May it please Your Honors, I understood the defendant stated he would write a paper in the form of an affidavit and submit it to the Tribunal containing these technical matters. It seems to me that the issue merely is whether or not he has read these particular articles published by Foch and Madaus, whether or not the defendant could determine whether that drug caladium seguinum would in effect sterilize a person if applied to them. It seems to me that his defense is that he realized it would not sterilize a person, hence he recommends it's use in an effort to hoodwink Himmler. If that is it, well it seems there is no necessity to go into technical explanations.

As a matter of fact to aid the Tribunal, the Prosecution will undertake to take these publications and also have an expert write a treatise for the Tribunal in simple laymen's language to aid them and the defendant may do likewise and avoid all of this unnecessary testimony in open Court.

THE PRESIDENT: As I have stated several times it appears to the Tribunal that the matter could be more properly presented to the Tribunal in the written form by way of a document and it could be studied at leisure and understood much better than it could be by listening to the witness' scientific dissertation from the witness stand. My suggestions were not intended in any way to injure the defendant's case but I think would help it since listening to the statements from the witness stand is rather confusing.

The Tribunal will take it's recess and counsel may consider this matter and discuss it and see if it cannot be arranged to let the defendant Porkorny dictate his scientific thesis as he pleases rather than testify here to his conclusions and what he did and why he did it, and then the whole matter will be before the Tribunal exactly as well as indeed in better form than it would be if detailed by him from the witness stand and written into the record in this manner. The Tribunal will now be in recess.

(A short recess was taken)

THE MARSHAL: The Tribunal is again in session.

May it please your Honors, the defendant Krugowsky is absent this afternoon having been excused by the Tribunal.

THE PRESIDENT: The Secretary will note for the record the absence of the defendant Krugowsky pursuant to excuse by the Tribunal so that he may consult with his counsel.

Counsel for defense may proceed.

BY DR. HOFFMAN:

Q Witness, please comment briefly on the question what you thought about the number of hot houses which would have been needed to cultivate caladium in Germany.

A Basically I can say that tropical plants grown in hot houses lose their poisonous effect or rather their capacity to produce poison. That is connected with the lack of the natural environment. As for caladium specifically that is a plant of the tropical forest and is subject to very definite conditions of growth which are very difficult. The number of hot houses needed can be seen from the amount of sap which I calculated would be necessary. The plant grows about 1 meter high in a year. Then it needs an area of 1 square meter and weights of about $1\frac{1}{2}$ to 2 kilograms would give 1 kilogram of sap. Therefore, for 10 human beings 274 square meters would have been needed. For 1,000 27,400 square meters. That would be 132 hot houses. Since the letter gives the high figures for 100,000 human beings 13,200 hot houses would have been needed. Since my letter gives the figure of 3 million, a suggestion which could be made only by one insane person to another, I must give the calculations for this figure, too. If it were possible if one wanted to sterilize 3 x 100,000 persons a year, it would have taken 10 years to reach the goal and 6 x 100,000 - it could have been done in 5 years. According to dosage one 79,000 hot houses would have been needed. According to dosage two 151,800 hot houses tropically heated for 5 to ten years. Then comes the path from laboratory and hot house

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to production which during war time, especially in Germany, would have been very difficult. Then I knew that I could afford to speak in whatever way was necessary at the time.

DR. HOFFMAN: Mr. President, at the beginning of my examination of the defendant Dr. Pokorny, I had the witness describe under what circumstances he grew up and what the circle of his acquaintances was. I also questioned him about the motive for his letter, and finally, I wanted to bring out the points of view on the basis of which he believed at the time that sterilization with caladium was not possible, working on the paper of Madaus and Company. I am convinced that the presentation of this third part of the examination of Dr. Pokorny can be made expeditiously in the form of an affidavit and I shall submit this affidavit later and I assume that the prosecution will give their approval.

THE PRESIDENT: Counsel may present any affidavit by the defendant Pokorny, for consideration by the Tribunal and the prosecution, when it is prepared.

BY DR. HOFFMAN:

Q Witness, I have only one more question to put to you. Do you believe, from your point of view, that the attempt to use caladium for sterilization was impossible and that, on the other hand, your motive was successful?

A According to the documents which have been submitted so far - for example, the report of Mr. Brack on the 28th of January, 1941, or the testimony of Dr. Remberg that, in Holland, a thousand Jews were castrated and a thousand were given medical certificates about this, the beginning of the Clauberg experiments at about the same time - one can see that, at this time, this problem interested authoritative circles very intensively and that such experiments and castrations were in fact carried out. Now, in October, 1941, my suggestions appear which, as can be seen from casual connections, aroused a certain interest and the authorities concerned took an interest in my plan. The X-ray experiments of January, 1941, were dropped. Now, in October, 1943, the witness Chajin Balitzky stated, from testimony of Dr. Levy, that 100 Poles were subjected to such experiments. In

October, 1943, the project was taken up again where it was dropped in the Spring of 1941. In the meantime, this impossible project had been under consideration. I cannot assert, but it is probably, that because of this project all these measures were postponed for two years and were, in the last analysis, too late. How many people were spared these measures, whether it was ten or one hundred or ten thousand, I cannot judge.

Q Mr. President, this concludes the direction examination of the defendant.

THE PRESIDENT: Does any defense counsel have any questions to propound to this defendant?

If not, the prosecution may cross-examine.

CROSS EXAMINATION

BY MR. HARDY:

Q Dr. Pokorny, I believe you stated here, during the course of the direct examination, that you found the testimony of Professor Leibbrandt most interesting inasmuch as Professor Leibbrandt was in a somewhat similar situation in that he also had a Jewish wife. Now, in connection with Professor Leibbrandt's testimony, do you agree with some of the reasons he gave for the downfall of the medical profession under the Nazis? You may answer that "yes" or "no".

A No, I can't answer that so briefly as all that. There's the following differences. Professor Leibbrandt was married to a Jewess, whereas I was divorced and my two children were the cause of the measures to which I was subjected. As for the deterioration of the medical profession in the Third Reich, I realized that as well as many other people did.

Q Well, was medical education and training influenced by the Nazi administration?

A Will you repeat the question?

Q Was medical education influenced by the Nazi administration?

A I had finished my training at that time, but I had an opport-

unity several times to talk to medical students and I made some observations myself at the clinic at Prague and I observed that the students were called upon for all kinds of exercises, meetings, roll calls, so that they had little or no time for studying. At the surgical section at Aue I once had four medical students from the student company in Leipzig. I assigned them to the operating room, etc. All four of them came to me and asked me to recall this assignment so that they would have time to study which they did not have at the University. This request shows that the time of the students was filled with other things than they themselves wanted.

Q Well, did the agitation of National Socialism influence physicians' organizations?

A I have described what measures I was exposed to through my professional organization. Yes, it exercised an influence on the doctors - on myself, for example.

Q Did you believe that Nazism would lead to disorganization and downfall of the then existing medical associations and organizations?

A The organizations no longer consisted of elected persons, but of persons put at the head of the organizations by some order. Consequently, it was not clear whether these people held these positions because of personal efficiency or perhaps because of other factors.

Q During the course of Professor Leibbrandt's testimony, he mentioned that Action Conti was one that started earlier in 1943 which instigated and directed persecution of doctors who were either foreigners or of so-called "mixed blood" or persons related by marriage to Jews. Did you understand that to be the same as Professor Leibbrandt had outlined for the Tribunal?

A I heard of this action Conti for the first time here. I did not know the name. I think you are mistaken. I think this was earlier than 1943.

Q Yes, it was 1943, Doctor.

A I did not know the name. I only know what was done against myself. That the same things were done earlier in the Reich, I knew that too.

Q Did you know the defendant Kurt Blome before you came here to Nurnberg to stand trial?

A No, I believe I read the name in the newspaper once as a representative of the Reich Physicians' Leader, but I am not even certain of that.

Q Did you know of any medical organizations, dealing with health and hygiene or public welfare, that were not under the domination of the Nazi Party of the SS?

A I don't believe so.

Q Had you ever heard of the Fuehrer's School of German Physicians in Altres in Mecklenburg?

A I heard on one occasion that there was a school for doctors, that it was very pleasantly situated and that the doctors who wanted to go there had to have certain sponsorship because there were too many applications. I heard that from some doctor at home.

Q.- Did you belong to any party organizations, such as National Socialist Physicians Association, etc.?

A.- No, neither the physicians' organizations or any other.

Q.- Did they harm you in the course of your practice for not having been a member of a Nazi organization?

A.- I am perhaps an unusual case, which can be explained only as follows: the measures taken against us in the Sudetenland were so late, 11 months after the occupation of Sudetenland, the war began and because it was at such a late time there was great scarcity of doctors, which probably forced the authorities to disregard these very radical measures. I was, in fact, allowed to practice medicine without being a member of the League of Physicians.

Q.- Dr. Pokorny, do you believe that medical experimentation on human beings is ethical if performed on persons other than volunteers?

A.- You can imagine that I have given considerable thought to that problem in the course of this trial, but the problem cannot be answered in one sentence. It depends on the nature of the experiments, it depends on the recompense offered them, it depends on whether they are volunteers or not. I think one has to consider every case separately. There are no legal provisions in any country in the World. That must be introduced on an international basis after this trial.

Q.- Do you feel before a doctor should resort to medical experimentation on human beings that he should first exploit experimentation on animals; second, to decide on whether or not experimentation on human beings is necessary; third, to then seek volunteers for experiments and prior to seeking volunteers to warn them of the hazards of the experiments, and then to conduct the experiments in an ethical manner; is that substantially what you believe to be ethical concerning ethical experiments on human beings?

A.- Mr. Hardy that is whole series of questions. That animal experiments have to be exhausted before one goes on to human experiments

that is a condition sine qua non, and the other conditions are also a matter of course.

Q.- What do you consider to be a volunteer for a medical experiment?

A.- As it has been brought out in this trial that even experiments in the concentration camps, if the people are asked who wants to volunteer for an experiment which isn't harmful to health and if the people are promised something in return, there must be a definite relationship. I can imagine that people who are volunteers must be informed what the experiment is about, of course. The experiment must be carried out carefully with consideration for the subjects, and my own personal point of view is that I personally would not like to carry out experiments which harm the health of another person.

Q.- And then you state you would not conduct a medical experiment unless the experimental conditions were as stated, desirable to you?

A.- If I understood the translation correctly, yes, but I am not quite sure.

Q.- I will repeat my question, would you conduct a medical experiment if the conditions which you outlined for an ethical experiment were not fulfilled?

A.- No.

Q.- Would you conduct that experiment if the conditions were not fulfilled had you been so ordered to do so by the state?

A.- That is very difficult to answer. That again is suggestive. If you take my own situation, if I had refused to carry out an order that would have meant my death. That makes no difference, 35 million people died and one more or less makes no difference, but I had the responsibility for my two children. I cannot say today how I would have reacted. That is a hypothetical question.

Q.- Dr. Pokorny, you state that you first gained knowledge that

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sterilization programs were being enacted in order to sterilize eastern workers and prisoners in 1941, is that correct?

A.- Yes, September 1941.

Q.- You gained this knowledge through one Voigt, spelled v-o-i-g-t, is that correct?

A.- Let me correct you, Mr. Hardy. He didn't say Eastern workers. After seven years I cannot remember the words that he used. I testified that I was describing merely the impression that the conversation left with me. I said that in the course of the settlement of the East. One can interpret that in various ways. In this trial since it has not been discussed yet, it is quite possible that this was the wish dream of a psychopath, or that he was actually telling me of an intention that existed.

Q.- Do you know what rank Voigt held with the SS or SD?

A.- No, I do not know that. His position was surrounded by great secrecy. I tried to find out what it was several times. On various statements I draw my conclusions. Whether these conclusions were correct, I cannot say. I saw a paper signed by Himmler but that was during a discussion of graphology, where he was showing me the signature, and I saw this signature in violet ink. I didn't read it myself.

Q.- You are a specialist for skin and venereal diseases, is that correct?

A.- Yes.

Q.- Was this patient one of your venereal patients?

A.- Yes.

Q.- Did you have many members of the SS as venereal patients?

A.- I can give you the exact members of the SS now whom I treated. I had four, two of them the lowest ranking with skin diseases, one who always came to me in civilian clothing, but I heard he was either in the SS or SD, because I was warned. He wore the golden party badge. He had

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a skin disease. The fourth was this Voigt I have been talking about.

Q.- Why weren't they treated by the SS medical services?

A.- He was apparently an agent or in some special job. He never wore a uniform. He always wore civilian clothes.

Q.- Did they come to you for treatment because they didn't want to report their condition to the SS medical service?

A.- I believe I can remember that they brought certificates, similar to public health insurance but they asked me not to use that but to treat them privately. That was one of the cases, even if it was not a venereal disease.

Q.- Now, during the course of Voigt's visit to your office you state that he spoke about sterilization by use of Caladium after having read an article publishing in a magazine in your waiting-room, is that correct?

A.- Not in the waiting-room. It was in my consultation room. I can describe the situation to you. For reasons of brevity I didn't go into detail before. On my desk there was a pile of magazines —

Q.- I don't think it is necessary to go into detail; he spoke to you about sterilization by use of caladium as set forth in an article in "Umschau" and published in 1941, is that correct?

A.- Yes.

Q.- Now, after that did he also refer to the article published by Madaus and Koch entitled "Studies of Animal Experiments pertaining to the problem of Sterilization by medication by means of Caladium Seguinum?"

A.- No, he did not. The "Umschau" —

Q.- Doctor, if you will kindly answer my questions we will get along faster. When for the first time did you read the publication in the experimental magazine by Madaus and Koch? When did you read that for the first time?

A.- I can't tell you exactly. Let us say the beginning of October.

Q Was that before or after the visit of Voigt?

A It was just before he was dismissed, I think that was the time, but I cannot be definite about the time. You can imagine after seven years that one does not remember these things so exactly.

Q Well, you stated that your attention was called to the method of sterilization by Voigt, that he had read in your waiting room an article published in a magazine "Umschau"; did you then take time to study this article in "Umschau" and then obtain the publication by Madaus and Koch as published in the experimental magazine, or did you have knowledge of this work prior to the visit of Voigt?

A No, I got this magazine, that is a specialist's edition, after Voigt brought my attention to this work as one cannot account reasonably unless one is correctly informed about the background.

Well, now, when you had heard from Voigt that sterilizations were going on; you state that his conversation had a great effect on you and that you were rather indignant and shocked; was that the occasion for further study on your part concerning the efficacy of Caladium?

A Not the usefulness, but the influence of Caladium and whether it was possible. In short a critical consideration of the whole problem as it existed in 1941 and 1942.

Q The point of hearing about these mass sterilizations, which were intended, you state you were indignant and shocked; then what did you propose to do about it when you started to consider that it was necessary to study the effects of Caladium? I am having considerable difficulty understanding just why you made an extreme effort to study the effects of Caladium when you heard that these mass sterilizations were going on; were you studying the effects of Caladium in order to properly instruct Himmler or Voigt as to just what could be expected if the drug were used?

A No, I believe I testified to this. After my attention had been drawn to this field, after I had learned of the intentions, after I had

seen that the method of sterilization by drugs was impossible in 1941-42, especially by Caladium, I saw the possibility of taking orders or actual steps and I saw the possibility of preventing these plans by making a suggestion which was impossible and which was to keep the authorities busy for a time.

Q Then briefly after you had heard of this fantastic proposition to sterilize hundreds of thousands of people, you then studied material pertaining to Caladium and determined that Caladium would not in effect sterilize a person; then you dug up the idea that here is a chance for me to extend a proposition to Himmler and then Himmler will attempt to sterilize these hundreds of thousands of people with a useless drug and in effect the people will not be sterilized; is that what you are trying to convey to us?

A Yes, it would have required enormous preparations, preliminary experiments, as you can see from the documents and an interest was taken in it and finally it would have been discovered that because of the large amount of material needed that is necessary for growing the plant in hothouses and all the conditions, which I tried to describe here but was not able to since the time was restricted, it would have been realized the method was impossible.

Q Well then you did take into consideration that the Madaus-Kock report stated that no experiments had been performed on human beings and the report itself states it was effective on human beings, not animals? The Madaus-Koch had only indicated experiments on animals, not on human beings and your proposition was for Himmler to experiment on human beings; is that correct?

A No, that was what Voigt told me. He told me that and the situation was entirely different, they were already being carried out.

Q You state in your own letter to Himmler, which is Document NG-035, on page 4 of document book 6 in the paragraph were you outline your ideas and the course which you suggest may be taken and under

No. 3 you state: "Immediate research on human beings (criminals!) in order to determine the dose and length of the treatment." Are you not in effect there proposing to Himmler that experiments be conducted on human beings?

A I did not suggest them, they were already in progress. In order to determine the dose and length of treatment, it was rather unnecessary as one could figure that out, that was something I wanted to talk about, but I was interrupted. However, as experiments were already going on, I did not know on whom, it seemed to me advisable to me to be advisable to take criminals because the interruption would be the slightest.

Q Well, then you did in effect propose that experiments be conducted on human beings right here in this letter?

A I did not suggest it, I recapitulated what Voigt had said, if something is known it could not be suggested by me.

Q Would you kindly turn to Document NO-035, perhaps I have not read it correctly? Do you have Document Book 6 before you?

A I have a copy of the document.

Q Now turn to the paragraph in the document, which reads as follows:

"If my ideas meet your approval the following course should be taken:

- 1.) Dr. Madens must not publish any more such articles. (The enemy listens!)
- 2.) Multiplying the plant (easily cultivated in greenhouses!)
- 3.) Immediate research on human beings (criminals!) in order to determine the dose and length of the treatment." etc.

Now, were those your ideas that you wished to convey to Himmler?

A You cannot take the individual sentences out of context as then of course the effect is different. You must imagine that I was working from the point of view, how can I make the idea understandable, how can I compose the letter in order to have the desired effect on Himmler,

in order to make this impossible idea plausible to him.

DR. HOFFMANN: Mr. President, if I remember correctly, I have already asked these questions which Mr. Hardy is asking now and the Tribunal was of the opinion that they did not serve to clarify the issue. I believe that the Prosecution must be in the same position and I therefore ask that this question not be permitted, otherwise, I would have asked it this morning.

THE PRESIDENT: It seems to me that these questions are entirely different from those propounded this morning by the defense. The objection will be over-ruled. Counsel may proceed. If counsel for the defense feels there are any questions he should ask, he will have an opportunity on re-direct examination of the witness.

BY MR. HARDY:

Q May I ask you, Dr. Pokorny, did you write this letter or did Voigt write this letter to Himmler?

A I wrote this letter. It is a reaction to the impressions which I was given by Voigt's statements. Just a moment, please, I have not finished my answer yet. I imagined at the time that that would be possible only by giving Himmler an idea, which he would have to think about for months and years in the hope of a sensational success, but an idea which would not have this success. This accounts for the letter being in this form. I quite understood that you do not understand the formulation of the letter, but I have testified it was not possible for us to combat these measures we heard about in any other way than this.

Q Now, Doctor, I am having a great deal more difficulty than I did before. Now, it is your contention that you wrote this letter and you hoped that Himmler would sit back, read the letter and would be confused he would stop the experiments, which you say were going on and endeavor in two or three years to determine in his own mind whether or not he would use Caladium seguinum to conduct future sterilizations; was that your method to sabotage the effort?

A Yes, that is what I mean to say. The necessary preparations were so enormous and so difficult that a reasonable method would have required years before it was found, aside from the fact that Caladium cannot be used for sterilization -

Q Just a moment; how much time would it take a person to experiment with Caladium seguinum on one human being?

A On one human being?

Q Yes.

A That was the risk that existed. That could have been done -

Q Just a moment, answer my question before you go into detail. How long would it have taken to perform an experiment with Caladium seguinum on one human being?

A 218 days.

Q 218 days? How long would it have taken to get the equipment ready to start the experiment?

A I have already told you it required fresh sap. This was - please, Mr. Hardy, let me finish my answer. This fresh sap cannot be used on human beings, since human beings are not the same as rats, because fresh sap contains tetanus and gangrene, and so forth, I don't need to go into that, it would have required preparation, but because of my botanical knowledge, I knew something about the plant. It is a plant of a group of 27 tropical plants which were formerly used as decorative plants in Europe and are not cultivated any more. In all of Germany only Madaus could have a few of these plants. It is difficult to reproduce this plant for that reason alone and it would be difficult to obtain the necessary number of plants.

Q Well just a moment. Madaus might have had a sufficient number of plants to immediately go to work so that Himmler could have gotten his plants from Madaus, isn't that correct?

A I doubt it.

Q You know as a matter of fact Himmler did send his people to Madaus organization to work there. Do you know that?

A I saw that from the document.

Q But you don't think it is possible Himmler could have gotten his preparations ready much sooner or do you think he could have used Caladium seguinum in an experiment on human beings in the same manner he would have on rats?

A Preliminary experiments would have been necessary, especially extensive animal experiments would have been necessary. What we have here that is a scientific work. That is not even the basis of an hypothesis. One knows nothing about the causative agency. I assume it was a leucocytes. Whether this poison or the poison is one substance or whether it reacts to heat, cold or chemical influence or not, whether it works alone or together with some other substance, those are all factors which would have to be tested and any such test would have taken months so that this experiment in the case of Caladium specifically would have required an enormous amount of time. Let me remind you of penicillin which went very quickly. With Caladium it is not so.

Q Try to be brief in your answers, doctor. Madaus and Koch were were known specialists in this field, weren't they?

A In the homeopathic field, yes.

Q Were you a specialist in this field? Were you considered to be a great expert in Germany in this field? Had you ever been heard from by anybody in this particular field?

A I really cannot call myself a big specialist in the field but I had the literature. I had the botanical knowledge and as I have testified I worked for a pharmaceutical firm in Neugene and was very close friends with one of the very best pharmacologists and I had as much knowledge as I needed for this work.

Q And you state that the publication of Madaus and Koch in the experimental magazine which is defense Exhibit 16, that is Porkorny Exhibit No. 16 is unsound scientifically, do you state that?

A Let us say I hold the opposite view scientifically.

Q Did you ever see Caladium other than in pictures?

A I have already said that is one of the 27 plants from the Amazon district -

Q Please doctor, I have asked you a very simple question. I am trying to expedite this examination so that we can finish in a rather short time and I have asked you a very simple question. Did you ever see the Caladium plant itself? Now you can simply answer by saying yes or no, whether you have read about it or have seen pictures of it I am not interested. Kindly follow my question and make an attempt to answer it specifically and we will be through much quicker and reach an understanding much quicker. Now have you ever seen the plant Caladium seguinum yourself?

A This is an excellent picture but I have never seen it personally.

Q Have you ever worked with it?

A No.

Q Have you ever look at it yourself?

A No.

Q Then you don't know the effect of it other than what you have read in literature, is that right?

A On the basis of the analysis of the paper it was possible for me to form a judgment of this type of experiment and the effectiveness of the use of Caladium.

Q Then you are definite in your statement that Caladium under no circumstances would effectively sterilize a person?

A Caladium cannot.

Q And you feel you know more about the effects of Caladium than Madaus and Koch?

A Possibly, yes.

Q Do you know the difference between sterilization and castration?

A Yes, what kind of sterilization do you mean? There are distinctions there too.

Q Well is castration distinguished from sterilization?

A Yes.

Q Castration is the sterilization of a male or a female individual by removal or destruction of the tissues of the reproductive organ, isn't it?

A No, that is wrong, removal is not necessary. One merely needs to separate them. There are several methods, the method in use in America --

Q I said removal or destruction. I didn't say exclusively removal, I said removal or destruction of the reproductive organ. This is the definition given by Albert Schoenberg in Lesaris, and printed in his manual, X-ray Therapy, volume one, and Schoenberg in his manual X-ray Therapy, the definition they give for castration is the sterilization of a male or female individual by removal or destruction of the tissues of the reproductive organ.

A The definition is essentially correct yes, but castration and sterilization are not synonymous.

Q Do you exclude the possibility that the use of Caladium might have had a castrating effect or was your research extensive enough for that?

A In the first place I performed no research at all but if you will think that a young rat weighing 150 grams for 218 days is under treatment and there is no effect yet then you can assume that the drug has no effect.

Q How is caladium administered?

A Madaus and Koch used it in two ways, as an injection and per os, by mouth.

Q Then after reading the Madaus-Koch publication you could not determine that the effect of caladium quite corresponded to a castration? You excluded that possibility entirely.

A Yes, I can prove that immediately. That was included in what I was not allowed to testify before. According to this work the effect

of Caladium on male animals is sterilization but on female animals it is lutenizing it does not destroy but on the contrary it promotes and that is ridiculous. If a thing is effective, it has the same effect on men and women.

Q Dr. Forkorny, did you ever hear of a chemist named Taubock, Karl Wilhelm Friederich Taubock?

A Taubock, no.

Q. I would like to read you an affidavit by Tauboeck who has worked on this drug and worked on it with Madaus concerning the efficacy and see whether or not you disagree with him. This is Document NO-3963, Your Honor, offered as Prosecution Exhibit 528 for identification.

THE PRESIDENT: The number you assign to this is identification 528?

MR. HARDY: Yes.

Q. (Cont'd) I will turn to paragraph number 3 which outlines the qualifications of the affiant Tauboeck in that he was a biochemist and botanist in the biological laboratory of I.G. Farben. Now, if you will turn to paragraph number 4, and I will quote therefrom:

"In the fall of 1942 I was instructed by the director of my laboratory, Dr. Mueller-Cunradi, to devote my time to research on the effective substance from the plant caladium seguinum. At the beginning of November 1942 I was sent to Dr. Schamberger of the Research Institute Grunewald/Berlin for the purpose of obtaining further information. The Research Institute Grunewald was a cover name for a camouflaged SS office. The address was Berlin-Grunewald, Delbrueckstrasse 6. There I was told that this plant was to be used for sterilizing mental patients. In order to obtain further information about the progress of experiments with caladium seguinum which had already taken place, I had to visit the firm Madaus in Dresden-Radebeul, together with Dr. Schamberger and another SS man. This firm had already made animal experiments with this plant and published the results in a medical journal in 1941. I was introduced to Mr. Madaus as Dr. Weiss, so that nobody would know that I was an employee of I.G. Farben. The senior pharmacologist of Mr. Madaus asked us, "You must be a commission from SS-Obergruppenfuehrer Pohl," to which the SS men replied "yes". The pharmacologist went on to tell us that a few days previously Pohl himself had visited Mr. Madaus together with several other people and had mentioned the especial urgency of this work. Furthermore, while visiting Mr. Madaus I checked all the equipment and experiments in the course of one day. By careful examination of sections of mice and rats and of the histological pre-

parations, I was convinced that the publications of Mr. Madaus were perfectly true. By this examination I, as a specialist in this field, gained the conviction that sterilization with caladium seguinum is no Utopia, but something which is quite within the bounds of possibility. On the return journey from Dresden to Berlin the SS men revealed to me that this research was being carried out on the express order of Reichsfuehrer SS Himmler in order to suppress birth among the Eastern nations. After this fact had been revealed to me, I was sworn to secrecy. I was furthermore informed at the Research Institute Grunewald-Berlin that the first preparations were to be supplied as soon as possible, as the Reichsfuehrer SS had ordered the testing of the new method on inmates of concentration camps to take place at once."

Now, paragraph number 5:

"In order to point out the effectiveness and practical possibility of using caladium seguinum as a sterilization drug, I would like first of all to go into the subject of the history of this plant. Before doing so, however, I would like to add that the caladium seguinum is not to be considered as a sterilization drug in the ordinary sense of the word, but as a castration drug. This is evident from the fact that the experiments carried out by the firm Madaus have clearly shown that a destruction of the sexual glands of the experimental animals occurred which is equivalent to the surgical removal of such glands."

And then he goes into the history of the plant, and in paragraph 6 he states:

"Inspired by this experience of the Brazilian natives the firm Madaus carried out their experiments on animals. The results obtained by the firm Madaus, which I have seen with my own eyes, confirm the effectiveness of the drug (caladium seguinum) as a means of sterilization for human beings."

And he goes on extensively to give his reasons which Your Honors can read, and I won't take up this time to read now.

Now, do you think that this affiant has also misunderstood the effec-

tiveness of caladium seguinum?

DR. HOFFMANN: Mr. President, I ask that the defendant be given an opportunity to read all of this affidavit. There are a number of paragraphs which do not confirm the opinion of the prosecution. This reading might have a suggestive effect on the defendant.

THE PRESIDENT: Counsel will be furnished with a copy of this translation in German. The Tribunal has it and counsel may have the copy of it, of course, and the defendant may certainly read it.

DR. HOFFMANN: I ask that he be given an opportunity to read all of it.

THE PRESIDENT: Yes indeed, I said that he will be furnished with a copy of this affidavit in the German language. That is available and he may read it. He may have it and keep it in his file and read all of it, of course.

I see no occasion, counsel, for the defendant to be making extensive notes on this affidavit. He would have a chance to discuss the affidavit later. You desire that he have time to read it, but—

MR. HARDY: Your Honor, I have only perhaps one or two questions to put to him concerning the affidavit. Defense counsel may well put other questions to him in re-direct examination.

DR. HOFFMANN: Mr. President, I merely wanted him to have an opportunity to look it over because Mr. Hardy asked his question immediately.

THE PRESIDENT: But he is now making extensive notes on it.

MR. HARDY: While he is reading it over, Your Honor, I would like to call your attention to paragraph number 11 and read that into the record also. The other paragraphs refer to some of the misgivings concerning the use of caladium seguinum by the affiant and the reasons why perhaps some of the tests by Madaus and Loch were unsuccessful. The paragraph number 11 is one that I think is important for the record. I will read it:

"As a result of all examples and explanations mentioned I am of the opinion that mass production of a castrating preparation from caladium seguinum in Germany or in the German occupied countries is no dream, but

could easily have been put into practice. Another proof of the harmfulness of the caladium poison is the fact that the Madaus examinations confirmed beyond doubt the castrative effect of caladium despite all the shortcomings already described. All this made me realize at once the criminal character of such research and for this reason did not carry it out as far as my specific order was concerned. The SS, however, took a great interest in this matter. I received my orders as an employee of the I.G. Farben Industrie from the chief of the security police, first through the camouflaged office of the Research Institute Grunewald-Berlin and later direct. I know, however, that the firm Madaus placed their orders through SS Obergruppenfuehrer Pohl separately and am not acquainted with the development of this matter."

Q. (By Mr. Hardy) Now you, witness, have read this affidavit. Do you think that the affiant is incorrect in that he states that the drug caladium seguinum would have a castrative effect?

A. Quite.

Q. When you wrote this letter, Document NO-035, which is in Document Book Number 6, to Himmler, did you anticipate that Himmler would hand it over to experts for study?

A. That's what I thought, yes.

Q. Weren't you afraid that Himmler might find out that you were making an attempt to hoodwink him?

A. I have two things to say to that. That is why the letter is put in this form, and that is why it says that as a German doctor and Oberarzt of the Wehrmacht I pledge myself to secrecy. That I was in danger in this matter I quite realized. There could be two reasons: one, that Himmler wanted to get rid of a person who knew about the secret; and the other, if the swindle had been discovered, then there would have been punishment.

Q. And you would have been in been in serious danger had Himmler realized that caladium seguinum was not effective and that you were attempting merely to sabotage his efforts, is that correct?

Q: And you were willing to take this chance even though you know that Himmler would as soon kill a person as not?

A: I was ready to take any consequences.

Q: When did you divorce your first wife, Dr. Pokorny?

A: In the middle of 1935. The divorce became effective the first of April 1936.

Q: When did the Nurnberg laws go into effect?

A: I do not know. I studied the Nurnberg laws when they became of significance for me, that is, for my children,

Q: Did they go into effect in the year 1935?

A: I do not know. I read them. I was in Czechoslovakia. We didn't have them. They didn't touch me at the time. I don't know whether they were issued at that time. I probably read them in 1939 - 1939, I think.

Q: And you state the reasons for your divorce were not for National Socialistic reasons?

A: Nothing whatever.

Q: Were they for what purpose - or for what reason did you secure a divorce from your first wife?

A: I have testified that our characters developed in different directions.

Q: You mean infidelity?

A: No not infidelity. Those were secondary consequences.

Q: What was your second wife's name?

A: Trux was her maiden name.

Q: How do you spell that, please?

A: T-r-u-x.

Q: And you married her in 1943?

A: September 1943.

Q: Could you tell us whether or not the name Ulzova means anything to you. Spelled U-l-z-o-v-a.

A: Yes.

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Q: What does that name mean to

A: Yes.

Q: What does that name mean to you?

A: That is the lady to whom I was engaged at one time, a Czech lawyer.

Q: When was that?

A: That was about 1936 to 1940. I don't quite understand what that has to do with this trial. I am not being tried because of my divorce.

Q: Just a moment. What was her job? Was she an Aryan and wasn't she a lady district judge?

A: Yes.

Q: Now you have told this Tribunal a story concerning communications by your first wife in the year 1942 and that she was in Prague and called you on the telephone and was in dire need of assistance. Is that right?

A: That was right. I can't give the exact date. It was 25, 26, or possibly 24 January 1942.

Q: Well, that was in 1942, January 1942, And then an SS man or some officer came to you and warned you not to go to see your wife in Prague as he intercepted the telephone message. Is that right?

A: That was on the same day, in the evening. I think it was about 6:30 or 7.

Q: And what did he tell you he would do to you if you went to see your wife in Prague?

A: He said that I would be shot in my consulting room.

Q: What was his rank, do you remember?

A: I don't know.

Q: Captain? Was he a Lieutenant? or a Sgt.?

A: He had a black uniform coat. His collar was turned up. He showed me his credentials. He told me what he had to say and went away again.

Q: And then you as a result of that could not muster up sufficient courage to go to your wife's or your former wife's, assistance in Prague?

A: That was not possible since I could assume that my house would be guarded that night and if I had gone out with the car it would not have been necessary to help my wife.

Q: But you were the man who had sufficient amount of courage to write a letter to no less a man than the Reichsfuehrer-SS in an effort to sabotage his sterilization program, knowing fully well that if you were discovered the results would be fatal that your family perhaps would be threatened? Yet, you didn't have sufficient courage to go to the aid of your wife in Prague. How do you reconcile this, doctor?

A: The situation is entirely different in respect to Himmler than the situation I found myself since I know that my house would certainly be watched and that any attempt to get to Prague would have the most serious consequences.

Q: Now you have stated here that in the spring of 1942 you received an inquiry regarding the production of the drug. What drug are you referring to in that inquiry?

A: I testified that I did not understand this question because I did not know that the Madaus firm had a drug called caladium-D-1. Consequently I did not understand this incident.

Q: Why would Himmler or an SS agency have to write to you to determine the producing of a drug when they themselves had the publications from Madaus and Koch. And, in addition, thereto, they already had men and representatives going to the Madaus Company to work?

A: I wondered about that too. If I had got a paper in my hand filed by Madaus I would have assumed that Madaus produced the drug. That's why I wondered. Besides I think you are mistaken in the time of the document. The first representative to the Madaus firm was later.

Q: Well don't you suppose that Himmler had contacted Madaus after

receiving your letter. This letter is dated October 1941 and there is a letter on page 5 of Document Book 6 which is Document NO-036 wherein Himmler personally addresses a letter to Oswald Pohl telling Oswald Pohl to get in touch with Dr. Madans about the publications and offer him possibilities of doing research with the Reich Physician SS on criminals who would have to be sterilized in any case. Now didn't it seem if seem unnecessary he would have to refer to you when you were, as you state, somebody who had read the publications?

A: I don't understand your question. I wondered at receiving this inquiry. Besides you see a certain amount of success here already. Himmler had gone into the idea if experiments were to be performed they would be performed on criminals in as much as they had to be sterilized anyway.

Q: That's good you point that out, doctor. That is an aid to the Prosecution rather than to the defense. Himmler here is conducting human experiments as you point out, and here you have propped he continue further experiments with caladium. Well this indicates he is following through the program given to him, as he says in the first sentence of this letter to Pohl: "I read Dr. Pokorny's very interesting memorandum" Your memorandum had considerable effect on him, didn't it, according to this letter?

A: It was supposed to.

Q: I have no further question your Honor.

THE PRESIDENT: Counsel may redirectly examine the witness.

DR. HOFFMANN: Mr. President, I have no questions. I should like to call a witness now but I don't know whether it would be expedient or not to call him at this time.

MR. HARDY: If your Honor pleases, is it the witness Trux that will appear first?

DR. HOFFMANN: Yes.

REDIRECT EXAMINATION

BY DR. SAUTER for the defendant Blome:

Q: Witness, I am afraid I have to ask you a few questions arising from your answers to the cross examination by the Prosecution. The Prosecution called you an expert and questioned you about things regarding the medical profession and you answered these questions. Witness do you really consider yourself an expert for such professional questions for the German Medical profession during the Hitler time?

A: I did not answer as an expert. I do not consider myself an expert. I answered merely as a private citizen, as common sense dictates. That my testimony is colored to a certain degree will probably not surprise you since you have learned my life history today.

Q: Witness, I believe you realize that the Prosecution is hardly interested in what you think as a private citizen.

A: I don't know what the prosecution is interested in.

Q: But that is quite clear, witness, you were asked because of special knowledge which you were assumed to have and you answered the questions. Now, I would like to ask you a few questions on this subject. Where did you study?

A. In Prague.

Q. In Prague. Were you born in Prague?

A. No, I was born in Vienna.

Q. You were born in Vienna. In Prague and Vienna.

Did you know German conditions of the medical profession, medical science, and the medical faculties before 1933 from your own observation?

A. Yes.

Q. Where?

A. From congresses, visits to the universities. I was the senior member of the dermatological Society in Czechoslovakia. I had scientific contact, not, of course, to the extent that other people did.

Q. Did you attend German universities as a student?

A. No, I only visited them briefly.

Q. What do you mean visit, two hours? Did you just look at the building, or were you there for 6 months to learn how they operated? Please explain that.

A. To be informed about German science and research before 1933, one does not have to be in the anteroom of a university. One can judge that from quite a different point of view.

Q. From Vienna and Prague?

A. Yes, and from the Reich.

Q. But you didn't live in the Reich, you didn't study in the Reich?

A. But as a person of scientific interests, I was informed.

Q. Did you have insight into the medical training, scientific training of young doctors in German universities?

A. Yes, I did.

Q. By visiting a German university here and there, when

you can't tell me how long the visit was?

A Because we had a certain contact with our German colleagues, Dr. Sauter, you will concede that the first German university was formed in Prague.

Q We don't have to go back to the Middle Ages. I am talking about your own studies.

A The discovery of America was a very important event. The founding of the first German University was also an important event, and that was in Prague.

Q You said before that the medical training of young doctors in the Third Reich receded in its level, and you said that on various occasions you talked to medical students, did I understand you correctly?

A Yes.

Q When was that? What years?

A Those medical students that was in 1943, the beginning of '43.

Q '43. And did these medical students in 1943 have insight into conditions before 1933?

A I can't tell you that. They came from the student company in Leipzig.

Q But you can judge that, Doctor, if there were students in 1943 studying medicine, then before 1933 they were children, and children are not able to form comparative judgment on the question of medical training.

A Dr. Sauter, I was not referring to the comparisons which these medical students drew. I was the one who drew the comparison, what I knew from earlier, and what I observed on these medical students. There is no purpose in wasting a great deal of this talk on this. One doesn't have to generalize. Far be it from me to run down German medicine and science and the medical profession. But one cannot deny

that there were certain factors and tendencies which reduced the level of the German doctor and the German student. Let us say -- well -- they endangered the level.

Q. Endangered, that is not quite what you said before, Doctor. But I'd like to know the following: You spoke of the students. I heard from you that you got your information from the students?

A. These students complained to me, they asked me to give them time to study. They didn't want to work because at the university they had to shovel coal, they had all kinds of meetings in the evening, they had no time to study.

Q. Doctor, did you find out how much time these students spent per week on such meetings.

A. According to the students about seven days a week.

Q. Then according to your testimony under oath, Doctor they had no time for anything else. Seven days a week from midnight they spent on such exercises.

A. They had lectures.

Q. They did have that time. That was wonderful.

A. Doctor, you must know from your own studies that lectures alone are not enough.

Q. I was a student before 1933.

A. Yes, you are a qualified man.

Q. And I believe that after 1933 many a student had qualifications.

A. You would have had to have a great deal of backbone and talent.

DR. HOFFMANN: (Counsel for the defendant Pokorny):
May I ask my colleague, my client is easily excitable. Perhaps you might take consideration of him. He has been on the stand all day today.

DR. SAUTER: We have been going through this for months.

BY DR. SAUTER:

Q. Doctor, you spoke of the interference by the Nazis in the professional organizations. Did you have any close insight into German professional organizations in the Reich?

A. Yes, they came to us to our great joy in October 1938. If you want the exact answer to this question, I can help you. A certain Dr. Kress came to Aussig, to the KVD, and in the first meeting which we attended it was said that the exaggerated specialization had to be abolished, that the good old German general practitioner had to return. I have nothing against a good old general practitioner, but any sensible human being will not object to the development of medicine through specialization. The specialist is nothing but the exponent of the clinic in the country, and what he does not achieve he sends to the clinic. Not all the measures which were taken by the German Reich Medical Association were ideal, not to mention what affected me personally.

Q. Doctor, you said that after 1933 people were appointed to the top positions of professional organizations who were no longer elected, but appointed, and consequently one could not judge whether they owed their office to personal efficiency or to other circumstances.

A. Yes.

Q. One of these persons was your co-defendant Prof. Blome.

A. Yes.

Q. Do you mean to say on the basis of your outstanding knowledge of conditions that Professor Blome is in any way responsible for the lowering of the medical profession which you allege took place.

A. I never said that. But you will admit that people

were in charge of things of whom we never heard anything.

Q. I am talking about Professor Blome.

A. Just a minute, I will get around to him. We were used to the Head of the Dermatological Society being Prof. Unna at Hamburg, and in France it was Brock or Bouteriere and in America a man named Sutton. Those were names we knew. I was not referring to Dr. Blome on the contrary I am glad of this opportunity to clarify what might lead to a misunderstanding, that the confiscation of my X-ray machine, this measure against doctors with Jewish associations is not the fault of Mr. Blome. I believe the KVD went to the Ministry of Interior and there was a certain Grote, yes, that is the name, Grote, and this man Grote is responsible, not Blome.

Q. Did you go the Reich Physician Leadership at the time? That was your professional organization, represented by the Reich physician leader Dr. Blome?

A. Doctor, I don't think I would have got as far as the anteroom.

Q. But you could have tried. You got as far as Himmler. You could have got to Blome, too. You could have written him a letter. Why didn't you?

A. Dr. Sauter, I had enough experience with the lower offices, and I could imagine what would have happened if I went to a higher agency, and so I never even tried.

Q. In that connection, Doctor Pokorny, you spoke of the Conti-Action. You know about this?

A. I learned about it here.

Q. Did you hear nothing in your home town of a Conti-Action?

A. No.

Q. Then in 1943 in Prague, there was no persecution of Jewish doctors. They weren't taken out of their homes, they

weren't removed from their practice?

A. Dr. Sauter, that was already done in 1938 or 39. The doctors were removed as early as '42, since I have testified that my wife, my former wife was sent to a concentration camp in January '42, as I learned later, it was Theresienstadt; and there were a few other things that happened there that I didn't mention.

Q. Isn't that a mistake, Doctor, don't you mean 1943? You say that the Jewish Doctors were taken away in '42? I am informed that that was in 1943.

A. Doctor, you may be right for this country, but let me point out that the whole development of National-Socialism differed in our country and the Reich. Here it developed slowly, but the movement broke over us like a flood; and perhaps I am qualified to judge this since my own divorced wife was sent to a concentration camp in January of '42, and she asked me for help. I know that very well.

Q. Doctor, that has nothing to do with the removal of Jewish doctors. Your wife was an entirely different case than the removal of the doctors.

A. But she was an X-ray specialist, X-ray practitioner, and the machinery was taken away. She was not only Jewish, but she was also a doctor.

Q. Do you know on the basis of what regulations that was done? I will make the question more specific.

A. I can't tell you, Doctor.

Q. Was that on the basis of a regulation of the professional organization or was that a Reich law?

A. I cannot give you any information about that. It must have been a regulation which was in effect in Czechoslovakia, that is, in the Protectorate. I can tell you nothing about it. I only know the fact.

Q. You don't know whether the Reichs-aerzte Fuehrung, or the leadership had anything to do with it, or Prof. Blome had anything to do with it?

A. I don't know anything about that.

THE PRESIDENT: Counsel, how much longer will the examination of this witness probably continue?

DRL SAUTER: A few minutes. Perhaps it would be better to interrupt it now.

MR. HARDY: Your Honors, is all this extensive examination necessary. I think that it -----

THE PRESIDENT: I was about to suggest to counsel that the Tribunal does not see any particular objective in his examination of the witness in his cross examination. I think that everything along the line that is followed so far, at least, has already been accomplished. If the cross examination would take any other time, of course, that would be a different question. I think the Tribunal will now recess until 9:30 o'clock tomorrow morning.

THE MARSHAL: The Tribunal will recess until 9:30 o'clock tomorrow morning.

(A recess was taken at 1700 hours, 25 June 1947 until 0930 hours 26 June 1947.)

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nuernberg, Germany, on 26 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats. The Honorable, the Judges of Military Tribunal I. Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in court.

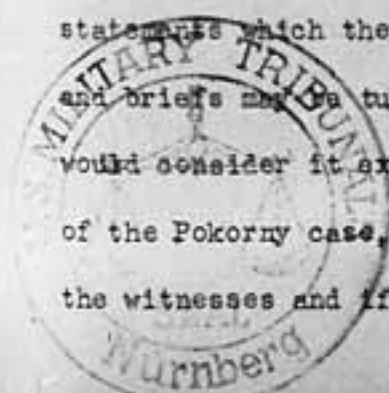
THE MARSHAL: May it please Your Honor, all the defendants are present in the court.

THE PRESIDENT: The Secretary will note for the record the presence of all the defendants in court.

ADOLF POKORNY - Resumed

THE PRESIDENT: Any further questions to be propounded to this witness by defense counsel?

DR. SAUTER (Counsel for the defendant Blome): Mr. President, before I continue the examination of this witness, I should like permission to give a few suggestions about procedure in the near future. A few days ago the prosecution announced five more witnesses. If we understood correctly, some of them are to be on sea water questions and some of them on general questions. The prosecution also apparently has the intention of presenting further documentary evidence. This prevents some of the defense counsel from writing their final arguments or briefs and turning them in for translation because these defense counsel expect that the evidence which will still be presented by the prosecution will give some of the defense counsel occasion to change or add to these statements which they intend to make. Now, so that the closing speeches and briefs may be turned in for translation as soon as possible, we would consider it expedient if the prosecution, after the conclusion of the Pokorny case, would first submit their new evidence and examine the witnesses and if then after that the defense were to submit what



evidence remains we believe that that will expedite proceedings.

MR. HARDY: Your Honor, in this regard the prosecution, of course, is adverse to complying with the wishes of defense counsel because that would then afford what you would call a rebuttal on the part of the defense to a rebuttal on the part of the prosecution. However, I am informed this morning that our first rebuttal document book has been filed with defense counsel today, which is long before the time necessary. In addition to that, the witnesses that will be called, due notice will be given to them. Now, I assume that particularly defense counsel in the position that Dr. Sauter is in, inasmuch as he is representing Blome and Ruff, that his briefs are all written and that all he will have to do now is add new evidence in a supplementary brief to supplement the briefs that he has now completed. That should be the case in most instances inasmuch as the last few days the discussion has been sea water which doesn't affect many of the defendants to any great extent with the exception of Beiglboeck, Freyseng, and Schroeder.

So it seems to me that their briefs are all completed now and whatever manner we finish up in the next few days in our cleaning up process that they could, in a matter of hours, write a supplementary brief to accompany the briefs which should have been completed up to this time.

THE PRESIDENT: Defense counsel will, of course, have the privilege of writing, as suggested by counsel for the prosecution, a supplemental brief. It is not necessary to delay translations of their principle briefs because the Tribunal would accept a supplemental brief bringing in any new matter or changes in a brief that has already been filed. It seems to me that that would meet the questions presented by Dr. Sauter.

DR. SAUTER: Then, Mr. President, I have a second request. The question is still open. What time is set for giving the closing briefs and the response to them? There are a few other minor questions which have to be cleared up. It would be expedient to discuss these matters, not here in court, but in a personal discussion with the Tribunal and

the prosecution. We should like to ask the President to give the defense counsel an opportunity to discuss these questions which need to be settled with the Tribunal and with the prosecution in the near future. There are only a few minor questions of a certain importance for the defense counsel, however. We should be very grateful for this opportunity.

MR. HARDY: Your Honor, I am apparently not clear in what Dr. Sauter has said. He said "in answer to the briefs". I feel sure that the prosecution isn't going to write another brief in answer to defense brief. I don't know just what he is referring to. The prosecution will file their briefs and I feel as far as the prosecution is concerned that will be the last brief we will write.

THE PRESIDENT: The Tribunal has fixed no deadline for the filing of these briefs, simply assuming that counsel for the prosecution and for the defense would expedite the preparation and filing of their briefs to the greatest possible extent, but there has been no deadline fixed for the filing of briefs. The Tribunal simply wants them as soon as possible. We fix no deadline and shall not do so unless we find undue delay somewhere, some delay which strikes the Tribunal as unreasonable. I think the Tribunal can meet a committee of defense counsel at 5 o'clock this afternoon, after the adjournment of court. If defense counsel desires to appoint a committee to meet with the Tribunal and with the prosecution, we can meet with them in the consultation room at 5 o'clock today.

DR. SAUTER: Thank you, Mr. President. We shall be there at 5 o'clock.

THE PRESIDENT: Counsel may proceed.

BY ER. SAUTLER:

Q Mr. President, I shall follow your suggestion made at the end of the session yesterday and in the name of the Defendant Blome, I shall put no further questions to this witness. I should, however, like to ask a few questions for the Defendant Ruff and the Defendant Rosenberg, with the consent of their defense counsel.

Witness, did you yourself carry out any human experiments?

A No.

Q Did you study international literature on human experiments before the beginning of this trial, witness, I mean international literature from which we have heard excerpts here?

A It depends on how you interpret the concept, experiments on human beings. It is a matter of course that at the clinic we tested a drug or a small piece of skin was removed in order to make a diagnosis, possibly also as the basis for a scientific paper, but such things cannot be interpreted as experiments on human beings. They happen daily throughout the world. Such tests, of course, were performed at our clinic too, but experiments on human beings, such as are meant here, that is what I meant in my first answer when I say we had not performed any.

As to your second question, I had a slight knowledge of this type of experiments because one can attain such a knowledge in part even from lay-literature. I never took a special interest in the subject before September of 1941 when the subject was brought to my attention.

Q Then in September of 1941, Doctor, did you study this international literature, which we have discussed here, for examples, Professor Leibbrandt and Professor Ivy, and then in a number of the document books; did you study this international literature in 1941; this is primarily literature which was published abroad in foreign languages, or were you unfamiliar with it until the beginning of this trial?

A I did not study this literature in any specialized fashion, but the subject was discussed with great interest by me and two doctors, who were friends of mine but there is no point of introducing them in the trial, because one of them died in a concentration camp and the other committed suicide. The extent of the experimentation on human beings, which has been brought out by this trial, I did not know of course.

Q Doctor, yesterday, you spoke about the rules for experiments on human beings, I am not quite clear about this, however, therefore, I ask you regarding your statement yesterday on the subject, were you expressing your personal, private opinion, which you formed for yourself without any knowledge of foreign literature, or did you mean to say that what you said on the subject yesterday was in your opinion the recognized version of the German medical profession as a whole?

A Dr. Sauter, I believe I answered this question yesterday, when you asked me whether I spoke on the subject as an expert. It is not the opinion of the German medical profession, I had no way of checking that. I had no occasion or opportunity to talk about it, that is the subjective opinion of mine and I attack all problems from the point of view of common sense. I believe that is the aurea mediocritas, which is the only level for a person of my caliber for judging a problem.

Q I have no further questions.

THE PRESIDENT: Are there any questions to the witness by any defense counsel?

Has the Prosecution any further questions?

MR. HARDY: The Prosecution has no further questions, your Honor.

THE PRESIDENT: The Defendant Pokorny, witness on his own behalf, may be excused from the witness stand and resume his place in the dock.

DR. HOFFMAN: Mr. President, I should like to call the witness Trux.

THE PRESIDENT: The Marshal will summon the Witness, Rudolf Trux.

Rudolf Trux, a witness, took the stand and testified as follows:

BY JUDGE SEBRING:

Q Please raise your right hand and be sworn.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

DIRECT EXAMINATION

BY DR. HOFFMANN:

Q Witness, you were born 11 January 1900 in Komotau, at that time in Austria Hungary?

A Yes.

Q You are now a resident of Kremsminster in the American Zone of Austria?

A Yes.

Q Witness, please tell the Tribunal briefly about your life.

A I come from a family, which for about 400 years has been in the Sudetenland. I spent my youth in my home town of Komotav and about half of my youth, fourteen years, in Prague and the rest in the Sudetenland. Since 1937 or 1938 I have been living in Reichenberg, the capital city in the Sudetenland. Since November of 1945, I have lived in Kremsminster.

Q Witness, have you ever belonged to the N.S.D.A.P. or any of its affiliated organizations?

A I never belonged to the party or any of its affiliated organizations.

Q Witness, are you related to the Witness Pokorny?

A Yes, he is the husband of my youngest sister, my brother-in-law.

Q Did you know Dr. Pokorny earlier?

Q Yes, before we became related.

Q Was there any friendly connection between you in addition to your relationship?

A Yes, before we became related there was a connection between us. The Sudetenland with its three and one half million German residents was more or less one big family, everyone knew everyone else through business or family connections or otherwise and everyone was connected. Dr. Pokorny was a well known man, he was known in Prague from the German Society of Physicians, the German Ice Hockey Association, and several organizations. He frequented the Prague casino and was a well known sportsman and well known tennis player.

Q Did you often discuss ideological questions with Dr. Pokorny?

A Yes, we frequently discussed ideological questions.

Q What kind of an attitude did he have?

A In the course of the years a degree of confidence developed between Dr. Pokorny and myself, which I might call a true friendship. There were no inhibitions and apparent frankness existed between us. This might be in part explained by conditions under the regime. Everyone who thought with a certain degree of responsibility was more or less isolated and look for contact with persons who shared this point of view. While Dr. Pokorny was a military doctor, we often met on his leaves in Reichenberg, in Komotav or in Chennowitz.

Q Witness, did you know about the difficulties Dr. Pokorny had after the occupation of the Sudetenland.

A Yes, the fact of his former marriage to a Jewish woman, his liberal attitude and other circumstances were occasion enough for the party to make difficulties for him whenever possible. These difficulties ran like a red thread through all phases of his private and professional life. I may give you the following example from memory. Proceedings of the N.S.D.A.P., shortly after the occupation of the Sudetenland began, with the purpose of hurting his practice and recalling his license. The main reason I remember was his close contact with Czechs and Jews, his half Jewish children, pacifists, etc., As a

result of indiscretions he knew his house and his contacts were being watched and spied upon by the Gestapo. His practise, as far as the influence of the party, went, was systematically reduced. For his farm at Komotav for a long time he was refused the so-called farmers certificate, although he cultivated his farm in a exemplary way. His promotion from a Lieutenant to Captain was long delayed because of the political conduct certificate.

Q. Witness, do you know the document in this case, the letter which Dr. Pokorny wrote to Himmler in October 1941? Did you hear anything about it?

A. Yes, I knew the contents from what my sister told me and what Dr. Pokorny later told me himself.

Q. Witness, please describe carefully, to the Tribunal under what circumstances this conversation took place and exactly what Mr. Pokorny said, giving the date as far as you can remember.

A. In the spring of 1942 my sister who was at the time living in Komotau came to us in Reichenberg for a visit. She was at that time getting a divorce from her first marriage and wanted to be away from Komotau for the transition period. She probably expected that I would help her. She remained with us for two or three months until the formalities of the divorce proceedings required her presence in Komotau again. When she was sitting with my wife and myself one evening she said that Dr. Pokorny when he was still in civilian practice had treated a patient who said he was a member in the SD in the protectorate of Bohemia and Moravia. This patient attracted attention by his request to be treated outside of normal hours. In the course of the conversation during the treatment which lasted several weeks this patient announced that the highest political circles were entertaining ideas of sterilizing prisoners by operation. The point of view here was to prevent an inter-marriage with the population of the country. And on a later visit this patient had mentioned an article which he had found in a magazine in the waiting room. This magazine contained a report about the result of sterilization experiments on animals by a foreign poison plant. Referring to this article, he had asked Dr. Pokorny whether this drug could be used for

sterilizing human beings. Dr. Porkorny had said "no." Dr. Porkorny, my sister went on to say, was shocked at the intentions of castration and could not get over the idea that the intention was to treat human beings like animals. He regretted that the medical professors and other authorities did not have the courage to oppose such intentions. My sister added, that Dr. Porkorny, acting on this conversation, had made a suggestion by letter to one of the highest SS agencies, that this foreign poison plant be used for the sterilization experiments. Thus he was convinced attention would be detracted from the method by operation. Dr. Porkorny expected no results from this drug but he thought that it would be a good way to pigeonhole the whole thing.

Q. Witness, did you yourself discuss the matter with Dr. Porkorny and when was it?

A. A few weeks later Dr. Porkorny also came to visit us in Reichenberg. That must have been at Pentacost 1942 or a week when there was a Catholic holiday shortly before or afterwards. On one of these holidays we and the two women and my two children went on an excursion to Friedland in the Iseengebirge to look at the Warenstein castle, and it's museum. While we were walking in the park of the castle in the neighborhood of Friedland, I intentionally brought the conversation to this information which my sister had given me shortly before hand. Dr. Porkorny first of all corrected my view that he had expressed any judgment. Botany had always been his hobby and in earlier years at medical Congresses he had reported on the results of his own research. There were special publications on the subject in his book cases which I had often seen. Dr. Porkorny said that the paper would cause experiments and all the red tape connected with it and that was from his point of view what

he wanted to impose on the authorities concerned. If he had expressed any opinion himself he would have saved the work. He confirmed what my sister had told me.

Q. Witness, what was your re-action?

A. My first re-action was that this letter was a very serious matter, although I knew the reasons which lead Dr. Porkorny to write it. I may have said this to Dr. Porkorny too and when I said that I would not like to have my name in Himmler's files Dr. Porkorny repeated his motives and said that something had to be done. One can't explain everything with rationalization and use careful common sense.

Q. Mr. President, in connection with the testimony of the witness Trux I should like to offer a document for identification which is in my document book I on Page 30, document No. 15, which will be Exhibit No. 21. This is a certificate of the Czechoslovakian Republic about the political circumstances regarding the witness Trux, on the basis of investigations.

MR. HARDY: I would like to know just what this document is. I would like to have it explained.

DR. HOFFMAN: Mr. President, this document which I shall show to the witness for identification is an official statement of the Czech Republic stating that the witness Trux is recognized as an Anti-Facist by the office for National Security and is exempt from wearing an identification badge, pursuant to ordinance 637.

BY DR. HOFFMAN:

Q. Witness, please look at this photostat and tell the Tribunal whether this certificate was made out for you?

A. Yes. I have the original of this. It was issued for me to certify that I am an Anti-Facist, that I did not belong to the Party, and according to the terminology of the Czech authorities, I am considered politically reliable.

Court 1
June 26-4-3-4-HD-Cook-VonSchöen.

DR. HOFFMAN: Mr. President, I have no further questions to put to this witness.

THE PRESIDENT: Counsel, do you desire to offer the photostat card as an exhibit?

DR. HOFFMAN: I offered it as Exhibit No. 21

THE PRESIDENT: And it has the same number as the certified copy of this card which is in your document book?

DR. HOFFMAN: Yes.

THE PRESIDENT: The Exhibit will be admitted in evidence.

THE PRESIDENT: Does the defense counsel have any questions to propound to this witness? Being no questions, the prosecution may cross-examine.

MR. HARDY: Your Honor, I might request the defense counsel for Dr. Pokorny if it would be convenient to call his witness Dr. Friederick Jung before he calls Dr. Friederich Koch.

DR. HOFFMANN: Mr. President, I should prefer to call Dr. Koch first and then Dr. Jung.

MR. HARDY: I am asking if it would be convenient for him to call Dr. Jung first. The prosecution would like him called first inasmuch as I wish to prepare some work for the witness Koch and I haven't had a too long knowledge that Dr. Koch was coming here as a witness and I would like to work over it a bit during the recess this afternoon or at noontime.

DR. HOFFMANN: Mr. President, I would be glad to oblige Mr. Hardy but I need Dr. Jung after Dr. Koch and I announced in time that Dr. Koch was coming.

MR. HARDY: In that event it may be necessary after the completion of the direct examination of Koch for the prosecution to ask for a delay in cross-examination.

THE PRESIDENT: The Tribunal will entertain the request when it is made.

CROSS EXAMINATION

BY MR. HARDY:

Q. Mr. Trux, what is your occupation?

A. I am a bank director by profession, that is, I was until 1945. Since then I have been director of a textile machine factory in Austria.

Q. When did you meet Dr. Pokorny for the first time?

A. After the World War, I think. I can't remember today of course. I became close friends with him after 1938. I was in Komotau frequently in connection with the illness of my mother whom Dr. Pokorny treated.

Q. When did Dr. Pokorny first start courting your sister?

A. I am not informed about that. My sister was a friend of Dr.

Pokorny for many years.

Q. Dr. Pokorny married her in 1943, is that correct?

A. Yes, October 1943.

Q. Your sister had been married previous to that time?

A. Yes, I mentioned before that in the spring of 1942 she visited us in Reichenberg in connection with her divorce.

Q. And at that time she spoke to you relative to a situation wherein Dr. Pokorny had met a high official of the SD?

A. Yes.

Q. What was it she told you about his meeting of the high official of the SD more specifically?

A. I can only repeat what I said before. A patient came who said that he was a member of the higher SD in the Protectorate of Bohemia and Moravia and who was unusual because he has to be treated outside of the normal hours.

Q. Did Dr. Pokorny ever talk about any other patients of the SD or the SS?

A. By name, no, no one. It might have happened that he made general statements about a certain case and draw general conclusions from the case but I can't remember that any specific cases were talked about except for purposes of illustration.

Q. Did Dr. Pokorny and your sister tell you that the matter concerning his letter to Himmler was secret?

A. No.

Q. You of course have read the letter?

A. I know the contents.

Q. In the letter he states—

A. I was told about it by Dr. Pokorny and my sister.

Q. You haven't read the letter? Hasn't the defense counsel presented the letter to you to read?

A. Yes, I read the text once.

Q. The letter of Pokorny tells Himmler he will keep this matter

secret, doesn't he? Don't you recall that in the letter?

(No answer)

Pokorny states in the last sentence of the letter to Himmler, "As a German physician and chief physician of the reserves of the German Wehrmacht retired I undertake to keep secret the purpose as suggested by me in this letter." Is that right?

A. Yes.

Q. He wrote this letter in October 1941, did he not?

A. Yes, he told me it was a few months before; I talked to him in the spring of 1942 and he had written this letter a few months beforehand.

Q. So he didn't keep it secret if he told you about it, did he?

A. Well, of course these things were confidential.

Q. Did he tell you that he had proposed that experiments be conducted?

A. Well, I could see that from what I was told from the contents of the letter.

Q. Then you understood that Pokorny was proposing that experiments be carried out with this poison plant, caladium?

A. Yes, that is what I understood. Dr. Pokorny from the very beginning very clearly expressed the opinion that this was an experiment with a useless drug because he expected nothing from this poison and because the cultivation of the plant during the war would be impossible, as he said repeatedly.

Q. But you understood that the reason why Pokorny proposed these experiments was because he thought the drug was useless?

A. The motive of Dr. Pokorny was doubtless to gain time.

Q. I didn't ask you, witness, about the motive. I asked you to repeat my answer to my question, the reason why Dr. Pokorny suggested that the experiments be conducted was because he thought that the drug to be used was useless, hence the sterilization would not take effect.

A. Yes, he said to me repeatedly that he wanted to distract

attention from the method of operation. That, perhaps, was the motivating factor.

Q. In any event you clearly understood that Pokorny had proposed to Himmler that he should experiment with this plant?

A. Yes, but Dr. Pokorny was working from the assumption that the poison could not be obtained during the war.

MR. HARDY: I have no further questions, Your Honor.

THE PRESIDENT: No further questions for defense counsel? The witness Trux then is excused from the witness stand. The Marshal will summon the witness Dr. Ernst Koch.

(DR. ERNST KOCH, a witness, took the stand and testified as follows:)

BY JUDGE SEBRING:

Q. Hold up your right hand and be sworn.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY DR. HOFFMANN:

Q. When and where were you born?

A. On the 17th of February, 1901, in Fulltau in Westphalia.

Q. What education have you had?

A. I attended the public schools for four years and the Real Gymnasium in Quackenburg for five years. Then I intended to study medicine. My parents did not permit that. I had to study national economy but secretly I took courses in medicine. Since 1922 I secretly studied medicine on the side. In 1924 I took the physical examination for the doctor's examination in 1926 the State examination; then I became assistant at the Medical Clinic in Cologne. In 1929 I became assistant at the bacteriological institute in Cologne. In 1932 I became chief physician at this institute. In 1935 I was put in charge of the biological institute of Dr. Wadaus in Radehoul.

Q Witness, what scientific papers have you written?

A About seventy, mostly on the basis of animal experiments.

Q And what are you doing at present?

A At present I am working for Madus and Company in Bonn.

Q And where did you work until the collapse?

A In Radebeul, and briefly before the collapse I was transferred to Moern, Hamburg.

Q What position did you have for Madus and Koch in Hamburg?

A I was in charge of the biological institute.

Q Witness, in the Journal for Experimental Medicine did you publish a paper about caladium?

A Yes, together with Dr. Gerhard Madus.

Q In the "Unschau" — you know the "Unschau"?

A Yes.

Q Did you publish an article about caladium?

A No.

Q Who did?

A Dr. Gerhard Madus.

Q What was the purpose of your paper in the Journal for Experimental Medicine?

A The firm of Dr. Madus produced drugs from medicinal plants. This did not seem to have a scientific basis in the eyes of many German doctors, and it was the duty of the biological institute to carry out scientific research on medicinal plants, especially to determine the effect of such plants exactly in animal experimentation. Dr. Madus had very special interest in the influence of medicinal plants on the function of the inner organs, especially the function of the glands with internal secretion.

The exact purpose of the paper I indicated in the paper itself. On page 69, the occasion for our investigations was the question — to what extent the experience of popular medicine and the practices based on this experience could be brought into conformity with the laws of

pharmacology, physiology and experimental therapy." This shows the purpose of our working plan.

Q Witness, was the purpose of this publication to announce a drug for sterilization, perhaps for use in the eugenic courts?

A No, this was not the purpose of the paper. As I have already said, the examination of the question of what influence caladium had on the function of the glands with internal secretion. If the paper had had such a purpose, then we would have had to multiply the caladium plants. We never did that. We would also have had to isolate the effective agent in the plant and determine the chemical formula. We did not do that. Without this procedure the question would have been quite senseless.

Q Witness, then you realized that this caladium did not represent a drug that could be used for the sterilization of human beings?

A Yes, of course.

Q How could that be seen from your paper, that this was not a drug for sterilizing human beings?

A There are many points in the paper where one can see that very clearly.

Q Witness, please do not quote. Since you wrote the paper yourself, just tell us about these reasons.

A On page 69 I said expressly that this was no prospect of procedure for human beings. I also said that the experiments were in part positive and in part negative, also on page 69; that the time until the drug took effect was subject to extreme variation; that in some cases after 140 to 160 days there was no effect; that large amounts of the extract were needed in comparison to the body weight of the animal; that the treatment took 77 to 218 days; that in female animals the sterility produced, we assumed to be only temporary; that it was unknown how long sterility would continue after treatment was discontinued; that the changes in the hypophysis were not the same as those

produced by castration; that the method of action of the plant in the body was unknown; that we had not thought of isolating the effective agent and producing it artificially. I am sure there are other points, but I think that will be enough.

Q Witness, do you believe that an average doctor, after reading your paper, would be convinced that there was no possibility of using caladium for sterilization?

A I should like to say that if he had looked at the paper and read through the passages which I have just quoted, he would have had to realize that.

Q Witness, you published this paper and Dr. Madaus had published an article in the "Unschau". Did you concern yourself with the growing of caladium or was there any special reason for the question of caladium being taken up in your institute?

A In 1936-37 we carried out tests on caladium with plants which happened to be available among our medicinal plants, and in 1939-40 we did the same. There was never any cultivation on any large scale. We often had difficulties in carrying out the experiments because there happened to be no plant material available. Then in 1942 I was suddenly told by a General Pohl that I was to come to Berlin for a conference.

Q What kind of a general was that?

A From the SS.

Q And what happened in Berlin?

A The conferences in Berlin, "Unter den Eichen" were in a big building, apparently Pohl's office. The guard received me, saying that the General had been waiting for twenty minutes. I was taken up to him and he said that he was not pleased that I had written a paper on caladium; that it was undesirable for Germany's position abroad or some such thing. I can't repeat his exact words. And therefore he asked me in the future to refrain from making such publications, but he asked that the tests be continued and that we tell the SS or rather him, about the results. We were to continue the tests on a broad basis, were to cultivate

caladium, were to try to grow the caladium from seed, and he had a few other wishes, but I can't remember them at the moment.

Q Witness, did you realize during this discussion what Pohl wanted caladium for?

A No, that was not entirely clear to me, but the way in which Pohl opened this discussion and the way in which he pointed out the significance of these investigations immediately disturbed me and made me suspicious.

Q If I understand you correctly you said before that on the basis of your work there was no possibility of sterilizing human beings with caladium. Now, since you were suspicious, as you just said, didn't you tell Pohl that nothing could be done with caladium?

A. I tried very hard to convince Pohl that this work would take very long, that it would be very difficult, that it would take many years before there would be any progress. I pointed out that this question interested us from the purely scientific point of view with respect to the influence on the function of the inner organs and the function of the glands with inner secretion, and that after we had cleared up this question we had stopped our investigation in 1940 and that we had no intention of resuming this work and no intention of publishing such work again.

Q. Witness, did you have the impression that Pohl did not have a very high opinion of caladium but was following an order from above?

A. Yes, I am sure he had such an impression but I don't believe that I could give any exact reason for it. I had the impression first that Pohl had a high opinion of the significance of the caladium experiments in the beginning but then I told him all the difficulties, the extremely long duration of the experiments - one was 184 days, another was 357 days. I pointed out all these difficulties to him and I told him that there was no caladium available, or at least that there were only very small amounts, that this plant grows in America, that it is very difficult to grow, and that it can be grown in Germany only in hot houses. And then he asked me, "Can't that be grown from seed?" and I said that growing tropical plants from seed in Germany was often very difficult because insects which exist in the tropics and which plants are adapted to do not exist here and, therefore, it would be necessary to pollinize such plants artificially, and that this had succeeded in many cases, but how it was for caladium I didn't know because I did not carry out such experiments myself but I had heard how our botanists dealt with such questions on principle. I pointed out the great difficulties perhaps in my own interest; I even exaggerated them a bit.

THE PRESIDENT: Counsel, the Tribunal will now be in recess.

THE MARSHAL: Persons in the Courtroom will please find their seats. The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. HOFFMANN:

Q: Witness, you told the Tribunal before the recess, that you spoke with Pohl in Berlin. Did you see him again?

A: Yes, twice. Once in 1942 - I don't know the precise date but I do know that there were peaches so it must have been in the autumn. I was in the biological institute at that time and all of a sudden was told that high SS generals or officers were in our plantation. This garden was 3 kilometers from the institute. I know that I was surprised because in the matter of caladium I had undertaken nothing; besides, I was afraid that I might be denounced because of the 16 anti-fascistic collaborators, who were in part political prisoners, whom I employed in the institute. I immediately went to the plantation and found Pohl with a large staff with him who had come in 2 large automobiles. He immediately introduced me to a doctor named Lolling and told me that in the future Lolling would supervise these experiments and that I should report to Lolling on the results of the experiments. In addition, he specifically required -- of, I forgot to say before, that at the conclusion of the conference in Berlin, Pohl gave me no precise orders or assignment -- but now he gave me the specific order that caladium experimentation was to be carried on on a broad basis. Then we were to examine the question whether native plants contained effective substances of the same sort as caladium.

Q: Witness, when Pohl ordered you to produce caladium, at what stage were your experiments at that time?

A: At that time there were no experiments at all. The whole matter had come to nothing in 1940; there had been nothing done to follow it up. That was toward the end of 1940. At any rate, in 1940, at the time of

the publication of this paper, no experiments were under way.

Q: Did you then undertake further experimentation after Pohl gave you this order, and until when did you do so?

A: Yes, I did. At first we experimented on *Drosophila-melogansta*, which is a fly. The results of these experiments were completely negative. The records of the experiments are probably available. Then we experimented on mice. After a few weeks this experiment was broken off, having had no positive results because all the animals died. So put in the record that they died because of an epidemic among themselves. Then there were what we called in our records Sterilization Experiment No. 4. It was carried out on 46 rats in toto but they were strictly subdivided so that, if I remember correctly, every single plant or variety of caladium was given to, I think, 5 rats.

This experiment lasted 184 days and I believe that in May 1943 we reported on this, then there was the last experiment, Experiment No. 5 with perhaps 60 animals altogether. I can't give you the number precisely because I don't have my documentation any more. This experiment lasted 357 days. That was in the middle of 1944 and then I believe after that no one was interested in any more experiments of this sort.

Q: Witness, I shall now put to you a report on the experimental series No. 5 omits along with the charts and I ask you to tell the Tribunal whether these are the results of your last experiment?

A: Yes, these are the reports on the last experiment.

DR. HOFFMANN: Mr. President, I put this record of the last experiment which the witness has just identified in evidence as Exhibits 22 and 23. They are in the Pokorny Document Book Nos. 27 and 28, the report and the tables respectively.

Q: Then it can be clearly seen, witness, that your last experiments were without result and were broken off having had no results?

A: Yes, that is so. However, I must explain in this connection that since 1940 we had not thought of these experiments as scientifically significant. If we were expecting any sort of results from them in the way they were carried out these experiments were of such a nature that you can derive nothing of scientific value from them today. The reason for that is that we assumed that the SS or Pohl was pursuing intentions which we did not agree with. For that reason the experiments were planned and carried out in the way I have just described, namely, in such a way as to lead to no reliable scientific results.

Q: Witness, even if you assume that the experiments were undertaken

seriously do you believe on the basis of your knowledge particularly in the field of caladium that in the calculable future anything would have come of them?

A: No, there is no reason for believing that there would. That is to say, nothing would indicate that which would be anything like scientific proof. We only had experiences with animals and the results with the animals could not be transferred to human beings.

Q: Do you believe this was enough assurance for an average doctor so that he could believe that no experiments of any importance could be carried on with caladium?

A: If the doctor reflected on the fact that it was necessary to treat animals from 70 to 120 days and that they were still uncertain elements then from this fact alone you can readily see that the doctor would not then feel that he could carry out experiments on human beings. The human beings would have to be segregated, locked up; they would have to be guarded all the time because as soon as the person noticed that this drug that he was taking didn't agree with him he could bring about artificial vomiting and thus frustrate the experiment. The drugs had to be taken in amounts from 40 to 60 kilograms for every human person in order to have the same results or corresponding results to the results from the animal experiments. That is a very large amount. This factor also would have persuaded any normal doctor. There are also other indication in the paper to the effect that this work was at a stage that permitted no discussion so far as to its applicability to human beings. In the paper on page 69 I specifically mentioned that, precisely in order to prevent some imaginative doctors hitting on the crazy notion of pursuing the matter in that direction.

Q: Doctor, did you have in Dresden the necessary number of hot houses to grow the necessary amounts of caladium?

A: At first we had no hot house for caladium; whether it was grown in the tropical houses so to speak on the side, then Pohl's order came to produce greater amounts of caladium and he made available a large hot house to us which I, however, refused on the basis, saying there was no purpose to that because we didn't have the plants. Then we were given permission to attach a hot house that already existed to a heating plant that already existed. This was 196 cubic meters and perhaps 270 plants could have grown in it.

Q: Was caladium extract ever produced for the sterilization of human beings?

A: No, and I am convinced that not even one gram was produced; this without my knowledge because the two people entrusted with producing this extract, Mr. Bisker, anti-fascist, well known, and Mr. Beiger was the other, a laboratory assistant of his, - he had been arrested for political reasons a few years previous to that and both hated the third Reich vehemently. Now, that these two men might have given anything to the SS, that I consider quite out of the question.

Q: Witness, yesterday the prosecution put in an affidavit, an affidavit by Karl Wilhelm Friedrich Taubeeck. Would you please make a statement regarding this affidavit.

THE PRESIDENT: The record will show that the witness is now examining Prosecution Identification No. 528.

THE PRESIDENT: Counsel, do you expect to examine the witness, Dr. Friederich Jung, in connection with this same affidavit? I suggest that you show the witness in advance the affidavit before he takes the stand, thereby saving the time of reading it when he takes the stand.

BY DR. HOFFMANN:

Q: I just want to ask you very briefly about this affidavit. First, do you know a man by the name of Tauboeck?

A: I never heard that name.

Q: Do you know a man named Weiss?

A: I know lots of people named Weiss, but the man designated here as Dr. Weiss, who worked for me, I cannot remember him for certain. I do seem to remember that after Pohl's visit in our garden and I believe after Lolling's visit to the institute, there was still another commission there and it is possible that Dr. Weiss was a member of this commission, but, I cannot remember him. In 1938 I had more than 8,000 doctors in the institute and it is impossible for me to know the names of all the visitors.

Q: Would you call a person who studied primarily botany a specialist in this field?

A: He might be an expert in the field of botany, but in the field of medicine, I should be very dubious whether he is a specialist, because regarding histological preparation and their make-up he makes statements here and he asserts that he practically had worked with histology in Vienna, but although I have great histological experience in the field of animal experimentation, in all important questions I always consulted a specialist pathologist, that is a man who concerned himself 20 years or more with histology. I always chose one who also specialized in this specific field and he had specialized in the field of the glands with inner-secretion. For instance, Professor Prociorte, who was in the question of the influence of Caladium on the structure, that is to say the structure

form of the tissues.

All of these are very difficult matters to investigate. It is very difficult to diagnose changes in such organs precisely. Therefore, I do not think it is permissible that a non doctor who in addition to biological studies, may have studied later histology, be called a specialist in this field.

Q: Do you happen to know where Dr. Hadaus had his experience in the matter of the use of Caladium?

A: Yes, I do know that. He told me that personally in 1935 or 1936 before we began our first Caladium experiments. He was in North America and heard there in conversations that natives of South America used the Caladium plant in order to sterilize their enemies. They tried to feed it to them secretly or perhaps they put it on arrow-heads and shot their enemies with them. These, of course, were tales of folk lore more or less and whether these tales were credible that you cannot say. Dr. Hadaus himself could not tell. Because we were interested in vegetable medicines, we of course heard innumerable such reports on the magical effects of this plant or that. In numerous cases we investigated such tales through experimentation and tried to find out exactly what their source was and if there was any truth in them at all. In such investigations, sometimes you do find the little nugget of gold, that is the truth in the matter, but usually such tales turn out to be unfounded. You cannot take such tales of mythology in general and apply them in the world of reality.

Q: Witness, on page 5 of this affidavit, this man writes of his experience, that he alleges he has had; can you tell by the way he expresses himself here whether he really had such experiences, that is the necessary experience?

A: When he says here "in one experiment" I cannot characterize that myself as an experiment. It is not customary in science to accept on single experiment as proof or as substantiation of any theory.

Of course, I cannot tell how he intended this expression "one experiment" to be construed, that you would have to ask him. But, if there was really only one experiment without any subsequent or checking experiment, such a single experiment is not even worthy of discussion.

Q: Mr. President, no further questions.

THE PRESIDENT: Any defense counsel have any questions to propound to this witness? There being none, the prosecution may cross examine.

CROSS EXAMINATION

BY MR. HURDY:

Q: Dr. Koch, it is my understanding that you testified upon reading the article published in the publication, "Experimental Medicine" written by Madans and yourself, that a person, that is a physician, could ascertain that Caladium Seguinum could not be effectively applied to human beings?

A: Yes.

Q: On page 35 of the document book, which is page 2 of the report, your report there, do you have the report before you, the publication?

A: No, I don't.

Q: You have the publication before you that was written by yourself and Madans?

A: Yes, I do.

Q: On page 2 of that report, the publication, the first paragraph reads as follows: "The artificial creation of sterility, particularly the temporary elimination of the functions of the female genital organs in case of tuberculosis or other serious damages, is a question which for understandable reasons is discussed frequently and which has resulted in extensive animal experiments; the results obtained in the course of this research have been most instructive from the point of view of science, but have not yet been applied, in

practise to human beings."

Now, can it not be construed from reading that paragraph that it is possible that this research Calladium Seguinum shows to you that application upon human beings may also bear some results other than what you have stated here under direct examination?

A: Fundamentally it should be said that new investigations might of course produce new results, that is a question that no person can answer. It is impossible to say here. This introduction to my paper refers to the problem altogether in general before I started discussing Calladium specifically and on page 69, page 2, I specifically emphasize the fact that one should not simply expect that such a product can be applied to human beings. I am emphasizing that my statement applied only to animals.

Q: Now is that, kindly point that out to us, where you say that this cannot be applied to human beings, kindly point that out.

A: Page 69, paragraph 2.

Q: Which page is that of the report?

A: Page 2.

Q: Could you read that, please and read it slowly so that the interpreters can follow you.

THE INTERPRETOR: Mr. Hardy, it is page 36a.

THE WITNESS: "If we now report in the following a third possibility of artificial, that is to say sterilization by medication, this does not mean a frivolous promise of a similar method for human beings."

BY MR. HARDY:

Q That does not exclude the possibility though, does it doctor?

A It does not exclude the possibility, of course, but a possibility is after all an open question.

Q Yet in this same report on page 4 of the original which is page 37 of the English, you impress upon the reader that the effect of caladium, this is the second paragraph on page 37, of the English, beginning in the middle of the page, you impress upon the reader there the following language:

"The effect of caladium on the sexual organs has been known to the natives there for a long time; they administer this plant in large quantities to their enemies in order to bring about impotence."

Now the whole purpose of this publication is to emphasize the efficacy of caladium segunium and you refer here to a drug which was used in South America by natives in order to keep out their enemies, and you are now showing the results in your animal experiments, and you state in conclusion on page 47, starting on page 46-A, that:

"Caladium segunium to which popular experience attributes a sterilizing effect, shows in animal experiments the following effect:"

And you also show the effect it has on animals. Now from reading this you say it is impossible for a person to determine that this would be effective on human beings?

A This statement that caladium ever was used by natives is put down here as an explanation or let us say as a piece of information, explaining what our incentive was, what induced us to begin these experiments at all. The other information refers to results from animal experimentation, and previously I had numerous examples which showed clearly and unequivocally that this work was at a stage or that this paper describes a stage in research which must be regarded as an initial stage of experimentation, a prerequisite for subsequent experimentation, and a prerequisite for a possible subsequent use on human beings, but I don't say that here and whether it is really

going to be the case no one in the world could say unless he is a person of unusual imagination.

Q Then you say that if it is possible that more elaborate experimentation had been performed on animals, then it may be that experimentation performed on humans would show that caladium segunium would be effective, is that right?

A That is an open question. There is no one in the world who can answer that question yes or no. If you want to ask me whether the possibility is based on my knowledge; if you want to ask me what results will probably occur from further experimentation then I will tell you this: It will for certain take many years before this question can be answered in the affirmative or negative, for example, the caladium question, and that I can say on the basis of my own study, is much more difficult to answer than the penicillin question.

Q Well, why couldn't you immediately experiment on human beings to determine this? Would that be unethical unless you had most extensively conducted experiments on animals?

A I don't believe that any one would offer himself voluntarily for an experiment of this sort.

Q Well, you are aware, of course, that human beings were less expensive to the SS than animals, weren't you?

A I beg your pardon.

Q You were aware of the fact that the SS could have obtained human beings for experiments more readily than they could have obtained animals?

A The sterilization question as applied to human beings was never discussed by me with the SS. The extraordinary importance of the question was simply pointed out but it was not said that experiments were to be carried out on human beings.

Q Well, now let's go back -

A But if you ask me whether I consider it ethical to carry out experiments on human beings, such experiments, then I must say I do not consider it ethical.

Q Let us go back to this report which you wrote. Do you consider this report for publication written by you and Madhassen to be a scientific publication?

A Yes.

Q Dr. Pokorny says that the report is unsound, has no scientific value?

A What reasons did he give for the statement?

Q Well, Pokorny said he knew this report was unsound because the authors arrived at the conclusion that regarding animals that the drug was effective on the male animals and was not effective on female animals and in that case he concluded it was an unsound theory, that if it was effective on one it should be effective on the other, and he felt the report had no scientific foundation whatsoever.

DR. HOFFMAN: Mr. President, I object to this question, the scientific part, and Dr. Pokorny's scientific reasons, I did not go into that yesterday because with the permission of the Tribunal I want to put an affidavit in on this question. Therefore, if the individual isolated statements of Dr. Pokorny here are to be torn from their context because he was not given an opportunity to state his whole view in this matter, then that is a disadvantage to him. It is impossible now to evaluate what he wanted to say and this question must be left until the affidavit is put in.

MR. HARDY: I submit that the defendant Pokorny in cross examination stated to me as I have just put the question to the witness and I am asking the witness whether he feels his report was scientifically sound in view of the testimony of the defendant Pokorny. In going into the specific details of the experiment just generally the defendant Pokorny stated to the Tribunal that he considered the report unsound and unscientific in as much as they found that the drug was effective on males and not effective on females and hence he couldn't understand where there would be any value to it.

DR. HOFFMAN: Mr. President, we feel that this should not be asked

in the cross examination as this was all on the presupposition that he would later be able to make his entire statement in the affidavit, and the questions would not be propounded to his individual answers in the cross examination and put to the witness here and now on cross examination.

THE PRESIDENT: Counsel for the defendant Pokorny is correct, defense counsel may file a supplemental affidavit, but counsel may now ask the witness if in his opinion the fact that it might be stated that the drug would be effective on males and not on females would make any difference in his scientific opinion on the matter.

BY MR. HARDY:

Q What is your opinion, Dr. Koch?

A That is of no importance. There are drugs that are five times as effective in males as in females. I myself have carried out experiments with the neurotoxic substance. These possibilities do exist but these are specialized scientific matters and the average doctor would not be inclined to know about this or concern himself with such questions. There is a difference in the resistance on the part of the male or female organism and in determining this question I have given specific consideration to this and published a paper on it.

Q Well, now when you were using this caladium segunium or the drug derived therefrom in the course of your experiments, how did you administer it to the animals, orally?

A Not in the form of a drug but in the form of a fresh vegetable extract.

Q Well, could you introduce it to the animal or to the subject other than orally, intravenously, for instance?

A I do not think it has been examined intravenously - it has been given sub-cutaneously and through a stomach channel, into the stomach.

Q Well, now when Oswald Pohl came to your institute and ordered you to perform these experiments did you attempt to delay the

experiments and fake the results?

A I must make a correction. Pohl was not at the institute. He went to our botanical gardens which is three kilometers away. As to the other part of the question I must say this: We did not carry through these experiments with the greatest possible energy, first of all we delayed the experiments; then secondly, we started off in a false direction, and thirdly, as a departmental head Pisker told me later we made various sins of omission and other mistakes and we made such mistakes intentionally, in order intentionally to sabotage these experiments. It was our firm intention that nothing positive should ever come of these experiments.

Q: Then you were of the opinion that something positive could come of the experiments. Therefore you purposely attempted to delay and fake the results so that no positive results could be obtained?

A: That is not an absolutely necessary deduction, because, as I said, the caladium question is an open one and as long as we do not have clear results you cannot say that treatment of human beings is possible with it.

Q: And by the same token you cannot say that it is impossible?

A: No, no person alive could say that, that it is impossible. But you can say that at the time — right now — it is impossible, and it is uncertain whether it ever will be possible. To state this very clearly the question is just as open as if someone said "Are we going to be able to telephone to inhabitants of Mars next month?" Then I can say "I don't know; that is an open question." And the caladium question is exactly of the same sort. Nevertheless, and this is what you seemed so surprised about in your question, I didn't carry out the experiments I was ordered to carry out just precisely for this reason, because I don't know, because no one can know whether contrary to expectations perhaps these experiments might not have some positive results. I don't know and no one can know because it hasn't been done yet.

Q: Well, did you ever give any of this caladium to the SS?

A: No, never.

Q: Did you ever give any to I.G. Farben?

A: No. That is, I cannot recall ever having given any to the I.G. but I can say with apodictic certainty that I never gave one gram of this caladium extract to anybody.

Q: You don't know whether I.G. Farben had any?

A: I don't know.

Q: What were you doing in Dachau?

A: We looked at the botanical gardens there on Pohl's invitation,

when in 1942 he suddenly turned up in our botanical gardens and looked at our plants without my knowledge. Then at that time he told us, "Please don't think that we are spying on you scientifically or otherwise. So that you may be sure that we have different purposes with our botanical gardens in Dachau I invite you to pay a return visit." We did pay this visit because otherwise we had to be afraid that we were making Pohl suspicious of our experiments.

Q: You didn't go down there for the purpose of starting a growth of *calceola sequina* in his hothouses in Dachau, did you?

A: No. So far as I know, no plant of ours was sent anywhere for such purposes.

Q: Were you inside the concentration camp when you went to Dachau?

A: No, I was in the botanical gardens and they were outside the camp proper, because we could see from there a high wall, and I assume that behind this high wall the concentration camp lay.

Q: Did you ever go to Dachau again after that first visit?

A: No, never.

Q: Was Pohl with you on that visit?

A: He arranged for the visit. He met us for perhaps two minutes, turned us over to another officer, and this man conducted us through the gardens. A conversation of a scientific nature with Pohl did not take place so far as I know. We saw him for the briefest sort of time.

Q: Did you ever meet Dr. Schumann?

A: Dr. Schumann from England?

Q: No, no, an SS physician, Schumann.

A: I cannot remember that name.

Q: Didn't he ever visit you at your institute?

A: I can't tell you. I cannot remember the name. I don't

know. It is not impossible. There were many, many doctors in the institute whose names I do not know, or don't know today.

Q: When did you meet Dr. Klauberg for the first time?

A: The bacteriologist, Dr. Klauberg, I met at a micro-biologic conference, and I heard him deliver a lecture there, but I cannot remember ever having had a private conversation with him. You are referring to this bacteriologist, aren't you?

Q: I am referring to Dr. Klauberg, another SS physician.

A: I do not know any SS doctor, Klauberg.

Q: And you are sure you never had any affiliations with Schumann and Klauberg?

A: So far as I can remember I never had anything to do with these two, nor can I remember any correspondence with them. I think I can say with absolute certainty that I had no connections with them at all.

Q: Doctor, for the moment I wish to propound a hypothetical question to you. If you have a drug which will be effective on males and not on females, would its use for sterilization be sound -- for purposes of sterilization be sound?

A: I didn't understand the question. Could you please repeat it?

Q: Well now, if you have a drug which is effective and will effect the sterility of a male but not a female, would it be sound scientifically and medically to use that drug in actual practice, or would there be danger that the males to whom the drug was administered might, in some instances, not become sterilized?

A: The effect of calcium was not the same in all animals. We found great differences in the effectiveness. The resistance of an animal to such a substance is very great; that is to say, the differences in resistance are very great. It could be, and it

actually did happen, that some of the animals were sterilized and some of the animals were not sterilized at all, or if some were sterilized, only much later.

Now whether or not this was healthy for the animals, I should like to have that explained more closely. What do you mean by healthy? Are you talking about a general poisoning? I must say that I have the impression that more animals died when being fed caladium in their food than animals died that weren't being fed caladium. It is possible that this effect on the glands with internal secretion also has a toxic influence on other organs or was your question intended differently?

Q: No, that answer is sufficient, Doctor. Doctor, did you have any misgivings after having been approached by Oswald Pohl regarding the production and experimentation with caladium sequinum?

A: Yes, because we thought we saw some purpose behind those maneuvers which we couldn't recognize for certain, but which we suspected the nature of. For that reason we had misgivings and for that reason we carried out experiments in 1939-40 in a way that from the scientific point of view is not acceptable. They were simply carried on in a pseudo exact way.

Q: Well then, what was the reason for your misgivings, if you thought that caladium sequinum would not be effective if applied to human beings?

A: Because that's an open question and you never can tell what will come of such investigations. We didn't even want to broach this question from the scientific point of view, entirely aside from the question what ultimate goals the SS might be having in this, namely the possible sterilization of human beings.

Q: Well then, you can't agree with the position taken by Dr. Pokorny after having read your publication, that it would

be impossible to sterilize a human being by use of caladium sequinum?

A: At the time when we wrote the paper, and I think even today also, because I do not know that any further investigations have been carried out of this question, you can say that it was impossible. That it will be in the future that, as I have already repeatedly said, no one can know, because it is an open question.

Q: You have never had any reports from the SS concerning the results of work with caladium sequinum on human beings or never have heard of any?

A: No, that cannot be. We made no caladium available for such purposes and that being the case, the SS would have had to find caladium elsewhere. We never delivered any or did we ever have any reason to believe that anywhere in this world caladium was being used on human beings, even in one single instance.

Q: However, it could well have been done without your knowledge?

A: That is quite possible.

MR. HARDY: I have no further questions, your Honor.

THE PRESIDENT: Witness, I would like to ask you if there is any botanical relationship between this drug, caladium, and the drug botanical product used in South America by the Indians known as curare?

THE WITNESS: No, as far as I know there is no connection between the two, because curare is used as a poison and it paralyzes the animal. It is toxic to the nervous system, but in a case of caladium we never had the impression that it was of such toxicity to the nerves as curare is.

THE PRESIDENT: Thank you. Any further questions to the witness? There being none the witness is excused from the stand.

DR. HOFFMAN: I have no further questions, your Honor.

(Witness excused).

DR. HOFFMANN: Mr. President, perhaps between now and the noon recess I could put in the rest of my documents so that after the pause I can call my witness.

THE PRESIDENT: Very well, counsel.

DR. HOFFMANN: As Exhibit No. 24 I put in Document No. 24 from Document Book II. This is an extract from the minutes of the International Military Tribunal in Nuernberg on 9 August 1946. This is the examination of Sievers by Elwyn Jones on 9 August 1946.

MR. HARDY: Your Honor, this is an extract of the proceedings of the International Military Tribunal which doesn't necessarily need to bear a document number. However, it is not certified in the manner prescribed by the Tribunal and should be certified by the Secretary General. I won't object but suggest it be certified in the proper form.

DR. HOFFMANN: I personally certified this extract. However, I can also have it done through the Secretary General should that be necessary.

MR. HARDY: Your Honor, as a matter of expediency I withdraw my objection but want to do that with the reservation that any extracts from the record should be certified by the Secretary General.

THE PRESIDENT: Counsel is correct. It may be waived in this instance. The document will be admitted as Pokorny Exhibit 24.

DR. HOFFMANN: I should like to read this document very briefly. Mr. Elwyn Jones, the prosecuting attorney, asked the question of the witness Sievers: "Do you know that in connection with this matter" - that is, relative to Dr. Pokorny's letter which is an issue here - "hothouses were erected where these plants were cultivated?"

"Answer: No, I do not know this. In connection with this, I recollect only the following: that this publication was sent to Dr. Madaus for comments, without mentioning the remarkable suggestion of Dr. Pokorny for comments of Dr. von Wuenzelburg who is an expert on tropical plants and who stated at once that such a plant could not be cultivated here and was not available."

THE PRESIDENT: Counsel, I do not notice that this exhibit is con-

tained in your document book. I was mistaken - it does show the record of the page of the International Tribunal proceedings.

DR. HOFFMANN: The next document I put in evidence is Document 25. This will be Exhibit No. 25 and is on page 62. This is an affidavit of the affiant before Military Tribunal II, namely Oswald Pohl, who on seeing Document NO-041, Exhibit No. 156, made additions to his statement of 14 July 1946, Document NO-065, to the following effect: "My letter of 7 September 1942, NO-041, shows that I had employed SS Sturmbannfuhrer Lolling in connection with caladium. Now, I never heard any more from Lolling concerning experiments with caladium. Had experiments with caladium in fact been made, Lolling would have reported to me about them. As this was not the case, no experiments could have been made."

Now comes Prosecution Document 26, Exhibit No. 26, page 63. This is an affidavit by Dr. W. Gottschald, Ph.D. - correction - the affidavit is signed by Dr. Thren, director of the Biological Firm of Dr. Madaus and Co., whom I first intended to call as a witness and from whom I now put in this affidavit. This affidavit of 2 January 1947 states the following:

"Since 16 August 1936 I have been working as a biologist at the Biological Institute of the firm Dr. Madaus and Co. after Dr. Koch evacuated Radoboul in February 1945 with a large part of the equipment of the institute, I directed the institute.

"I know that before I took over animal experiments with caladium secuinum were performed at the institute. However, this was done only on a small scale as the cultivation of this plant, a typical hothouse plant, is very difficult. I am not aware that caladium was supplied for sterilization experiments on human beings.

"I know that ^{not any} / members of the SS came to inspect the institute. In my presence, however, nothing was discussed with them concerning caladium experiments."

And it says at the end: "I would add that I was never a member of the NSDAP or of any of its affiliated organizations."

The next document that I want to put in is Pokorny Document No. 19.

This will be Exhibit 27, Document Book II, page 54. This is an affidavit by Professor Holmut Weese, director of the Pharmacological Institute in Duesseldorf, and who makes statements regarding effects produced by caladium.

Then I shall put in Document 20, Exhibit 28, page 56. This is an affidavit by August Wilhelm Forst from Munich, professor of pharmacology, and this also discusses the effects of caladium. From this affidavit of Weese I should like to read only the last paragraph:

"Apart from these restrictions, however, the whole train of thought seems to me to be without pertinent significance, since large scale transplantation of a tropical plant to Europe would hardly have been possible during the war.

"Because of the unspecific effect of the caladium extract, its virulently poisonous quality, the doubt as to whether it can be planted and used in our moderate zone, I consider it extremely improbable that even a doctor of only average education will attempt with conviction the experiment of sterilizing human beings with caladium extract on the basis of the work of Madaus and Koch. Convincing papers for the problem referred to other than the work of Madaus and Koch are not known to me."

THE PRESIDENT: This completes, counsel, the introduction of your documents, I think.

DR. HOFFMANN: Yes, it does. Permit me to call the witness after the noon recess.

THE PRESIDENT: The Tribunal will now be in recess until 1:30 o'clock this afternoon.

AFTERNOON SESSION

(The hearing reconvened at 1335 hours, 26 June 1947.)

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, I am informed that the examination of the witness, Jung, will not take much more than an hour. At the end thereof I think Dr. Servatius will be prepared to conclude the afternoon by introducing supplemental document books of the defendant Karl Brandt. The Prosecution requests to call, out of order, that is, before the completion of the supplemental documentary evidence of the defense, 2 witnesses tomorrow. One is Josef Laubinger and the other is Karl Hoellenreiter, both gypsies, who were subjected to the sea-water experiments at Dachau. I would like to be sure that Dr. Steinbauer is informed - he is in the city - and will be available tomorrow when these 2 witnesses appear, if it meets with the approval of the Tribunal.

THE PRESIDENT: See that Dr. Steinbauer is informed of the fact that these witnesses will be called tomorrow morning.

MR. HARDY: Very well.

DR. HOFFMANN (Counsel for the defendant Pokorny): I should like to call the witness, Jung, at this time.

THE PRESIDENT: The Marshal will summon the witness, Friedrich Jung.

FRIEDRICH JUNG, a witness, took the stand and testified as follows:

JUDGE STERLING: Please hold up your right hand and be sworn: I swear by God, the Almighty and Omniscient, that I will speak the truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE STERLING: You may be seated.

THE PRESIDENT: Counsel may proceed.

DIRECT EXAMINATION

BY DR. HOFFMANN:

Q Witness, please tell the Tribunal when and where you were born?

A On the 21st of April 1915, in Friedrichshafen.

Q Please describe your scientific training.

A I studied medicine at Tuebingen, Koenigsberg and Berlin. Since 1938 I have been an assistant at the Pharmacological Institute in Berlin, under Professor Huebner. In 1945, I was at the Pharmacological Institute of Tuebingen as a scientific assistant and since the beginning of 1946, I have been head of the Pharmacological Institute of the University of Wuerzburg and hold the Chair of Pharmacology there.

Q Witness, are you an expert on pharmacological questions?

A Yes, I believe so.

Q Witness, what do you think of homeopathy or bio-chemistry?

A Homeopathy or bio-chemistry is a very interesting system of healing which, at the time of its origin was a reaction to the one-sided attitude of **classical** medicine. It is noteworthy and no doubt justified and has many good aspects; but I consider it psychologically remarkable that for 137 years this system has remained essentially unchanged as a doctrine although in the past century the development of modern scientific medicine has come to a certain degree of perfection. I consider this all the more remarkable inasmuch as the advocates of homeopathy at the time, insofar as they are doctors, have the advantage of the high medical training of our universities and medical academies and should realize the unsoundness of the tenets of homeopathy. The latter has been testified to by internists and pharmacologists on many occasions. Schissler's Bio-chemistry, which is not to be confused with physiological chemistry, is closely connected with homeopathy and is derived from it.

Q Witness, is it true that in instruction at the universities

a similar antagonistic attitude toward bio-chemistry or homeopathy is expressed?

A Yes. I, myself, am in the habit of going into these things in detail in my courses. During my own studies at the University of Tuebingen and Berlin, I heard nothing else. I know no German member of my profession, responsible for teaching students pharmacy and related subjects, who is an advocate of homeopathy.

Q Witness, do you believe the firm Madaus is in favor of this homeopathic tendency in medicine?

A Yes. I have known the Madaus firm for many years as a leading firm in this connection. I have always had the impression that it publishes propaganda among laymen and doctors very extensively. As an example of the nature of this propaganda, one could mention Madaus year books of all the past years.

Q Witness, what we are interested in here is that the firm published a paper by Madaus and Koch, on the question of the use of caladium. You know this paper and if you have an opinion on it, I ask you from what point of view do you believe the Madaus firm came to carry out experiments with caladium seguinum?

A From the final statement of this paper itself one can see that it was carried out in a series of experiments performed by the Madaus firm, to study the influence on the hormone structure by plant material. This question is no doubt extremely interesting and scientifically rewarding but it is an obvious assumption that the aim of the work was rather to find a basis for the use of caladium in homeopathic practice in interruptions of potency, sterility, frigidity, etc. That the Madaus firm had certain propagandistic purposes in publishing this paper can be seen from the publication of the results of the work in a popular magazine, a procedure which is not customary.

Q Witness, what possibilities are there, in principle, for sterilization?

Q Witness, what possibilities are there in principle for sterilization?

A From the papers which have been given to me I have observed that a clear distinction is not made between sterilization and castration, and I should like to clarify that here first. Sterilization, generally, means disturbance of the capacity for reproduction. Sterilization includes castration. That is, not merely disturbing the reproductive capacity, but removing the reproductive glands from the organism which has deep-seated consequences for the whole human being. There are false disturbances of the psychic and of the working ability. I believe that the problem under discussion here is not the problem of castration, but the problem of the simple disturbance of the reproductive capacity while retaining the other aspects of the personality of the human being. I shall not go into the various procedures which are used in medicine. When a human being, especially a woman, is to be sterilized, temporarily, because what is at issue here is permanent disability of the reproductive capacity, is interruption of the output of the reproductive glands. That can be done by putting an obstruction at any point, that is by performing a surgical operation. The second possibility is that the human being, as a whole, remains normal, the only thing that is lost is the reproductive capacity. The second most radical possibility is the removal of the reproductive glands which involves castration, and various other serious symptoms, reduction of working capacity, serious psychological changes. A procedure which in practice would be out of the question. Another possibility is radiation of the reproductive glands with X-ray or radium rays, and thus damaging them severely. There are certain very definite disturbances, depending on the degree of irradiation. This is in all equivalent to castration. X-ray sterilization or X-ray castration does not guarantee 100 per cent, success, unless one is using very large doses. This X-ray sterilization is based on

the fact that X-rays effect particularly young, rapidly growing tissue, such as reproductive glands are, but there is no specific procedure for sterilization because X-rays will effect also other quickly growing tissue. I am thinking of the blood building system of the body. If one were to radiate the whole body with the dose necessary for irradiating the reproductive glands, the person would probably die of a severe blood disease. Another possibility is poison, which also effects specifically quickly growing tissue. As an example I would like to mention Benzol. When these poisons are introduced into the human body, there is no way of controlling the effect. If, for example, Benzole is administered to a human being the reproductive glands are damaged it is true, but before this can take effect, the blood building organs which react similarly, are damaged even more severely, and the human being dies. We have the picture of chronical Benzol poisoning very frequently as an industrial disease. In most such cases we have no complaint about sterilizing effect. Another way of affecting the reproductive glands is to interrupt the sexual life of the organism. One can perform an operation in the central nervous system at a certain spot. That is, of course, not acceptable for practical sterilization. One can do the same by removing the pituitary gland, the hypophysis. It is important for the activity of the reproductive glands. That is also a very difficult operation and very frequently brings about the death of the experimental animal, but one can also administer the hormones produced by this gland to the human gland in larger quantities and thus the regulating mechanism is disturbed. We distinguish two hormones, Prolan A and Prolan B.

MR. HARDY: May it please, Your Honor, I just can't understand the purpose of this testimony. Is this witness an expert on the subject of sterilization or is he testifying as to facts concerning Pokorny's implications in the experiments, or is he testifying as to the reliability of the Madans Company, or to the effect of caladium

seronium? If he is testifying to the effect of caladium seronium, I don't think the other discussion is necessary.

THE PRESIDENT: The Tribunal shares the doubt expressed by the Prosecuting attorney, so far the point of this witness's testimony is not easily discernible. Just what is the purpose of it, counsel? If the witness is going to read a long document it might be better if it were presented in the form of an affidavit and put into the document book.

DR. HOFFMANN: Mr. President, I believe that this expert witness has already finished his general statements. I consider his last statements of value, which refer to psacific and non-specific sterilization.

THE PRESIDENT: Concerning what phase of the issues before the court is the witness to testify to?

DR. HOFFMANN: The witness is to testify that specific sterilization is impossible for caladium.

THE PRESIDENT: Then instruct the witness to proceed to give testimony on that subject.

Q Witness, you have heard, please speak of the possibility of sterilization on the organism as a whole, and not on the reproductive glands specifically.

A I shall be briefer. I thought it was necessary to go into some detail, because in my opinion the sterilizing effect of caladium can not be understood, and the basis of the procedure can not be understood, unless one is informed as to how human beings and animals can be sterilized at all. If one does not understand sterilization in general one can fall into the error of feeling this is a relative specific work.

THE PRESIDENT: Witness, just a moment.

S counsel, why would this testimony not be more effective if prepared in the form of an affidavit and put into a document book. I can assure you it adds nothing to testimony such as this to have it repeated in

open court. It is even more useful to the Tribunal if it is in the form of an affidavit in the document book, unless the prosecution attorney cares to cross-examine the witness.

MR. HARDY: I have no desire to cross-examine this witness, Your Honor.

THE PRESIDENT: Counsel, it seems to me clear that the testimony of this witness would be even more valuable to the Tribunal in the form of an affidavit, that would be submitted as one of your documents.

DR. HOFFMANN: Mr. President, I shall gladly comply with the wish of the Tribunal and shall submit an affidavit from this witness.

THE PRESIDENT: I would ask you, counsel, if this witness can testify directly to any of the activities of the defendant Pokorny in regard to this matter or anything that he did in the matter of caladium or endeavoring to procure caladium to be used as an experimental drug, or is this witness testifying merely to scientific facts as he sees them?

DR. HOFFMANN: He had no direct connection with the defendant Pokorny. He can testify only to the scientific value of the matter, especially what an average doctor would think of this working after studying the results of the animal experiments.

THE PRESIDENT: Counsel for Prosecution stated he did not care to cross-examine the witness. I am sure the testimony of this witness would be equally of value to the Tribunal in the form of an affidavit and save considerable time. The Tribunal accepts your offer to withdraw the witness and put his statement in the form of an affidavit. It must be numbered and submitted in the form of an exhibit when offered. The witness Jung is excused from the witness stand.

DR. HOFFMANN: Witness, you are excused.

THE PRESIDENT: I would ask the Secretary if Defendant Pokorny's counsel has provided these witness sheets if they are available for the witnesses called this morning and this afternoon for Pokorny, the witnesses Trux, Koch and Jung.

MR. HARDY: The Secretary reports he has no such documents furnished.

THE PRESIDENT: They should be prepared and furnished to the Tribunal.

Does counsel for Defendant Pokorny have anything further to offer?

DR. HOFFMANN: No, I am finished with my case then.

MR. HARDY: Your Honor, I believe Dr. Servatius is prepared to submit the rest of his documentary evidence in the case of Karl Brandt. If he does not anticipate he will fill out the rest of the day, I suppose Dr. Nelte will be ready to put in supplemental affidavits or documents for Handloser.

THE PRESIDENT: Is Dr. Nelte, counsel for Handloser, prepared to submit any further documents?

The Tribunal has not only on the bench the subsequent document book, the last document book, prepared by Dr. Servatius, I think they are all in our offices.

MR. HARDY: Your Honor, we have a rather unusual circumstance here. I searched my files and find from Dr. Servatius about five or six supplements. Now he has lined up in order the documents out of these supplements which he will introduce. I think he has prepared one for the Tribunal and one for the Prosecution in addition to the supplement he put out in the book, he has them now and in the order in which he will present them. I wonder if we could recess for about ten minutes, and line up the supplementary books and then the copies for the judges can be lined up at the same time.

THE PRESIDENT: Very well, the Tribunal will be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. SERVATIUS: For Karl Brandt;

Mr. President, I have the documents in a new order for the convenience of the Court. I shall hand you this copy. They are no new documents in there. They are simply in a different order.

MR. HARDY: May it please Your Honor, this supplemental document book Dr. Servatius has just passed up to your Honors contains on the front page an index which starts out with Karl Brandt Exhibit No. 82, and runs down through Exhibit 30. If he puts them in evidence this index will start out with his first exhibit being No. 30. Now it would be most convenient for the Prosecution and I am sure for the Tribunal if at a later date Dr. Servatius could supply us with an index of the first 29 exhibits, then we could take all the documents which he is not offering and delete them from the document book and then we would have them in chronological order, 1 through 29, and then follow along in the manner in which he is going to offer them and it would be much simpler for the Prosecution, and then we would know just what documents he intends to introduce.

THE PRESIDENT: That suggestion will be followed, of course. Each member of the Tribunal should have a complete document book, but meanwhile we can proceed with the submission of these documents as we now stand with one document book in which the exhibit numbers will be noted.

DR. SERVATIUS: Mr. President, the document which I intend to offer fall into two categories, one affidavits about definite counts of the indictment. The rest is extracts from literature as evidence as to the lack of reliability of the experiments on euthanasia.

First, I shall offer the affidavits on the actual charges, document Karl Brandt 821, I offer as Exhibit 30. This is an affidavit by an Assistant Judge Geist, who was in contact with Karl Brandt through the office of planning and economy through 1943. He testified about the activity of this office, especially the relationship of the office

of planning and economy to the office for science and research. He says that the greatest influence was with business economy, not with planning and research. He says Professor Brandt never brought any political point of view into the work, and that the planning office did not have any political character. Members of the office did not belong to the party.

Now comes document 47 as Exhibit 31, it is an affidavit of the Arms Adjutant of the Fuehrer, Adolf Hitler, who speaks of Brandt's connection with the Hitler office and his activities.

The next document from the supplemental volume II is document KB 91, an affidavit by Heinrich Hoerlein, pharmaceutical technical department of the I G Farben Industry. He speaks of Brandt's office and he confirms what Luebke said about planning and research. He also says that he believes Brandt was against the interruption of industry and prevented great damage at the end of the war.

The next document, KB-102, is an affidavit of Dr. Luebke, who also worked in the Office of Planning and Research, of November '43, also an office reply on research. He confirms that this office had more influence than the one for science and research and speaks about Professor Brandt's actual activity. He also says that the office never had any political character. On the contrary, industry frequently asked this office for protection.

THE PRESIDENT: Counsel, for the sake of the record assign an exhibit number to each one of these. The last one that you just referred to is Exhibit 33.

DR. SERVATIUS: 33.

THE PRESIDENT: Announce the exhibit number with each document for the sake of the record.

DR. SERVATIUS: Now I offer KB-112, which will be Exhibit 34. This is a chart of Karl Brandt's office. The Court asked the defendant Karl Brandt to prepare such a chart. This chart shows the working connections. Brandt's subordination was limited to the offices for science and research and planning and economy. I don't intend to go into this chart in detail. That would take too much time and in my opinion it is not of any special significance.

THE PRESIDENT: Do I understand, counsel that this is Karl Brandt Document 112?

DR. SERVATIUS: Yes, 112, Exhibit 34.

THE PRESIDENT: The number of the document is missing from the copy in this book. That's why I inquire.

DR. SERVATIUS: KB-112, affidavit of Professor Karl Brandt about this chart.

THE PRESIDENT: Counsel, the next document in your book does not correspond with the index which you handed the Tribunal. On this index you have Karl Brandt Document 120, and that is not contained in the book. The next document in the book is Number KB-88.

DR. SERVATIUS: One document is missing, KB-120, Number 188. It has

not been translated yet. That will be the one following KB-112, after the chart.

MR. HARDY: Might I inquire whether Number 188 is the document which has been offered by the prosecution or is that a new document?

DR. SERVATIUS: I obtained this document from the Defense Information Center. It has not yet been offered by the prosecution. I intend to offer it now. We have not yet got the English translation. I offer KB-120 as Exhibit 35. It is not very long.

THE PRESIDENT: That is the document which is missing from this book, counsel.

DR. SERVATIUS: Is the affidavit KB-102 by Luebke missing?

THE PRESIDENT: KB-120, Number 188.

DR. SERVATIUS: That is the document that I want to offer now. That is missing. It has not been translated yet.

THE PRESIDENT: That is missing?

DR. SERVATIUS: It has not been translated yet. It is one page long and I should like to read it into the record.

THE PRESIDENT: Very well, the document will be supplied for the document book later?

DR. SERVATIUS: Yes.

THE PRESIDENT: It will be Exhibit 35.

DR. SERVATIUS: I shall only give the contents. This refers to the position of the Ahnenerbe office. It is a very characteristic document of the ambitions of this office to seize all research. First there is an order by Himmler which says the Reichsfuehrer-SS has entrusted the Ahnenerbe with the execution of all scientific research assignments. Then comes a notice about a telephone conversation of the 17th of August 1942 saying Hitler is to be asked to issue an order saying that all scientific research work in the SS is to be under the control of the Ahnenerbe, and it is added, "Such an order is of great importance and special urgency. He could not say any more." Finally, there is a letter to Himmler, speaking of the foundation of the Ahnenerbe, and I quote: "In a short time it

must come to the point where we surpass the efforts of Reichsleiter Rosenberg and that it will become the research office for National Socialism. This will be possible only if we all stand together and if everything connected with research, no matter what field, is in the Ahnenerbe and is directed from there." I believe this document is of great significance in judging the position of Himmler and the Ahnenerbe in research.

Now, there follow a number of documents on the experimentation on human beings. First, KB-88 which I offer as Exhibit 36. This is the affidavit, the first one, of Dr. von Kleng, who was an assistant of Dr. Ambros in the special committee of the Ministry for Armament and War Production. He speaks about "N" product which is a subject of the indictment and explains the significance of this material. He says that it is not a gas and was out of the question for such purposes but that later the problem was taken up anew by the SS and worked on themselves.

Now follows KB-89 which is Exhibit 37. This is another affidavit of Dr. von Kleng, speaking of the gas decree, the text of which is not known. He says that this decree entrusted Karl Brandt with anti-chemical warfare.

The next is KB-97 which is offered as Exhibit 38. It is the testimony of a Dr. Gutermut who speaks of the danger of liver punctures which was discussed here during the trial. He says it is very harmless and is performed in all modern clinics in the world.

The next document is KB-98 which I offer as Exhibit 39. It is an affidavit by the witness Dietzsch who was examined here. He stated at the time that Professor Brandt had been in Buchenwald at one time. He says here: "I declare that I made my statements solely on the basis of the information given by Dr. Ding; that is, that I myself never saw Professor Karl Brandt in Buchenwald."

There follows KB-99 which will be Exhibit 40. It is an affidavit by the co-defendant Professor Schroeder about the question of the ointment for burns. The defendant Brandt was accused of having passed on an ointment for experiments for phosphorous burns. This affidavit says that

such an ointment was offered to the Luftwaffe, too, and it says here that Professor Brandt made an ointment available to him which was supposed to be suitable for use on phosphorous burns, and the doctor who reported this to Professor Schroeder said, no, Professor Schroeder said he told the doctor to get in touch with the firm to obtain amounts for tests in hospitals and first aid stations. The Court will remember that that was the statement of the defendant Brandt, that he had not passed this ointment on for research purposes but only for tests.

There follows Document 101, Exhibit 41, an affidavit by Dr. Ambros, who speaks about chemical warfare agents. He worked for I.G. Farben and had to work on chemical warfare agents and protective agents. He says that in 1944 he came into touch with Karl Brandt. On that occasion Professor Brandt said that he had to take an interest in chemical warfare agents and countermeasures. At the same time he showed a letter from Hitler and said that he was primarily concerned with obtaining materials for gas masks. He went to two factories with Brandt and Brandt wanted to get a general picture of chemical warfare agents. He says there was great uneasiness at the time about getting protection against chemical warfare as it was thought that the Allies would use poisonous gases. It was said that they had brought poisonous gas over with them when they landed at Tunis. It was also said that the Russians had new gas masks which fact pointed to the possibility of the use of a new poison gas. On the German side, there was definitely a serious shortage of chemical warfare protective equipment, the reason why Karl Brandt was given the special assignment to obtain gas masks.

The next document is RB 103. I offer it as Exhibit No. 42. This is an affidavit by Dr. Walter Nielenz who speaks about the gas decree of 1 March 1944. He states: "As far as I remember, the decree was worded approximately as follows:

"I have ordered my Commissioner General for the Medical and Health Service (Prof. Dr. Brandt) to take a major part in all matters concerning protection against chemical warfare (of the army and the civilian population) and to issue orders to the stations (military and civilian) established for this purpose. In questions of the protection of the civilian population against chemical warfare, he must obtain in advance the approval of the Reich Air Minister and Commander in Chief of the Luftwaffe."

The witness also says that there was no research assignment in connection with chemical warfare. He also says that the initiation of chemical warfare was shortly to be expected because the enemy had large amounts of gas ready. He also confirms the presence of gas shells in Tunis and Dakar and says that there was great alarm by the capture of Russian gas masks because it was assumed that the Red Army had succeeded in introducing special chemical warfare agents. He also says that the civilian population was defenseless against gas attacks, that the supply of gas masks was completely inadequate, the average figure being about 32 percent, and for children about 7 percent. It was assumed that 15,000,000 civilian gas masks had already become quite useless so the civilian population was completely unprotected. Forty-five million gas masks would have had to be produced and that was the purpose of Brandt's assignment. According to the witness, Professor Brandt himself objected strenuously to the initiation of chemical warfare by Germany. The witness further speaks about N agent, which was not a gas. And then he speaks on another subject which is of interest to the proceedings, that is the removal of poison from drinking water. He says he knows there was a special commission in the Armaments Ministry for the decontamination of drinking water. This had neither been established by Brandt nor was it under his command. The task of this commission was the production of

decontamination equipment. He also says the work was discussed in a meeting in December 1944 at which he was present. Professor Brandt, who was present, already agreed with the general opinion that Haase's efforts, designer of the apparatus which was discussed here, would not constitute an improvement in present methods and should therefore be rejected. He had therefore asked me to work toward this end.

This is advanced against the charge that Karl Brandt had ordered drinking water experiments in the concentration camp.

There follows KB 122

THE PRESIDENT: Counsel---

DR. SERVATIUS: It has not been translated yet.

THE PRESIDENT: I was calling this to your attention, the fact that this document was not contained---

DR. SERVATIUS: I can tell you briefly what the contents are. I can bring the document itself later. It is an affidavit of the witness Neff, who was a witness, and in cross examination I examined him. When I asked whether he actually had seen Karl Brandt at the concentration camp (he had previously stated that he recognized Brandt's striking face), now here he says the following: "About two months after this examination I met Professor Karl Brandt in the waiting room for prisoners. Professor Karl Brandt spoke to me, asked me whether I knew him. I said, 'Mr. Bartels?' then I mentioned another name, and then Professor Brandt said, 'But, Mr. Neff, you recognized me the other day, or spoke about me or something like that.' I don't know whether Professor Brandt or I mentioned his name. Then I said, 'Yes, I know you by sight.' Professor Brandt said he had certainly never been in Dachau. Then I said then, 'You must have a double.' Finally, Dr. Robert Servatius, who examined me before the Tribunal, I did not recognize again." Then the witness said, "Before the examination I was shown a number of pictures of the defendants without being told what their names were. I looked at the pictures and when I came to the picture of Karl Brandt, whose name I didn't know, I said, 'That was a high ranking SS officer who was certainly

in the hospital before 1942.' I was then asked if I could pick out this person from a number of other persons and I answered that I could. And then I was about two weeks later in court and was asked if I recognized any of the defendants and I said, 'Among others I recognize the first one in the first row as the person whom I had seen in the hospital.' This was the first time that I heard the name Karl Brandt." I shall let the Court judge the value of this recognition. That was Document KB-122, Exhibit 43.

I now refer to Document KB-93 which is already offered as Exhibit 29 but it was not admitted at that time.

MR. HARDY: Your Honor, I believe when this was offered as Exhibit 29 prosecution strenuously objected to the admission of this document in evidence, deeming it immaterial. I don't know whether Your Honors recall the extensive argument by counsel in this regard but I would again like to reiterate the objection on the part of prosecution to the admission of this document in evidence.

DR. SERVATIUS: Mr. President, I consider it very important for this document to be admitted. The Tribunal gave me permission to send questionnaires to Professor McCance and Dr. Sabers, medical counsellor in Cologne. These questionnaires were received by these gentlemen but neither of them has answered. I assume the German gentleman has not as yet received permission by the authorities and the English gentleman isn't inclined to answer this questionnaire. Therefore, it is all the more important for me to submit this document. About the relevance of the document we have already argued. In my opinion the Reich Committee for the killing of deformed children is of decisive importance. One can see here that children, when they are incapable of living, are not subjected to euthanasia but something worse - that is, experiments. I don't think one can say parents voluntarily gave up children for this purpose. Then this case applies whether experiments on non-volunteers or whether conforms with medical science and ethics. We see here a foreign official agency issues an order that all German agencies pass the matter on with-

out scruples and that at a time when this trial has been going on for some time and everyone presumably has read about the terrible things in the press. With this I want to prove that the real attitude of the medical profession is different than the press and propaganda. What the press publishes is only false propaganda which damages science and has some political aims. For that reason, in the interest of science I must offer this document and prove that Karl Brandt did nothing different than what is approved by highest authorities today. I feel this must be admitted.

MR. HARDY: Your Honor, I still don't see the value of the document. Furthermore, the document hasn't been authenticated as yet in a manner prescribed by the Tribunal. It may be an isolated document. Secondly, it isn't in outline as to the procedure used; it has not been substantiated; its materiality is in question. Whether it has any probative value or not I am not wishing to argue right at this point. I am arguing the authenticity of the document first of all, then the probative value later.

DR. SERVATIUS: Mr. President, on 22 May 1947 I received a letter from the Secretary General—

THE PRESIDENT: Counsel, this document is not available to the other members of the Tribunal.

MR. HARDY: Your Honor, I was under the impression that the Tribunal had ruled that if this document was properly authenticated it would be accepted into evidence and gave Dr. Servatius ample time to authenticate the document. That he hasn't done.

THE PRESIDENT: Well, I was going to say this document not being available to all the members of the Tribunal the authenticity is not easy to study. I suggest that this be passed.

DR. SERVATIUS: Mr. President, may I first explain. On 22 May 1947 the Secretary General wrote to me:

"Subject: Procurement of Documents.

"To : Dr. Servatius.

Court No. 1
26 Jun 47-A-18-5-EHM-Gross (Von Schon)

"Herewith copy of letter NR/PH 2457 dated 22 June 1946 from Deputy Regional Commissioner, North Rhine Region, to Oberpraesident, North Rhine Province, which has just been received from British authorities in Duesseldorf.

"For the Secretary General: R.E. Benford."

Copy is inclosed. This is an official statement and an official copy. I don't believe for formalism one can go so far as to ask Deputy Regional Commissioner Brigadier Wallace to have this certified. I shall hand you the document.

MR. HARDY: From this addition, Your Honor, which isn't in my document book, if he has had it properly authenticated, I withdraw my objection.

THE PRESIDENT: The document may be accepted as Karl Brandt Exhibit No. 29.

MR. HARDY: Of course, I did not withdraw my objection to the probative value. If the Tribunal deems it to have probative value, then, of course, it is admissible. I objected originally as to its authenticity.

THE PRESIDENT: The document is admitted as Exhibit 29. The probative value is before the Tribunal to decide. Counsel, of course, in their briefs, may argue pro and con on the matter of the probative value of the document.

DR. SERVATIUS: Mr. President, as for the questionnaires sent out on this subject, I ask for permission to submit them later, if they should be received.

Mr. President, I should like to offer the following document No. 110, for the following reasons. In this document KB-93, speaking of McCance's experiments, it is said that they are harmless and vainless; they are kidney function examinations. One has no idea of what that means and if the questionnaires are not answered we will be in the dark. Now, by pure coincidence, I happened to find an article in "The Lancet" by this Professor McCance, where one gets some idea of what is to be done by these children. It is said that these kidney function tests are best performed on human beings and then it is said that the study of the amount of sodium chloride in the body can be performed by an analysis of small animals, or upon analysis of fetuses and new born children. Then he goes on with his animals about examination of the kidney function. I believe that is important since Professor Ivy said here that if such experiments are performed they are not an evil. The analysis can be performed only when the children are dead.

MR. HARDY: Your Honor, having looked over the rest of the documents in this particular complex in the sequence as Dr. Servatius wishes to introduce them, the Exhibit No. 29 that was just accepted into evidence and these other exhibits are all exhibits dealing with literature, literature on experiments and work in other countries. I now request

that the Tribunal rule whether or not such literature will be admissible in toto and then whether or not each document will be admissible as it is introduced; this has been delayed by the Tribunal, and if so, it seems to me that perhaps all these could be put in together for all of the defendants. Several of these are merely articles from Reader's Digest; "The Lancet" I do not know - I must ask counsel here - whether or not they are admissible, but first of all, before they are introduced, I think it would be incumbent upon the Tribunal to rule whether or not this type of evidence will be accepted. This has been delayed now and if the Tribunal rules that they will accept it then, of course, we can object to each document as it goes in. But it is my understanding that as yet the Tribunal has taken the position that they do not wish to rule as to the admissibility of any of this evidence.

DR. SERVATIUS: Mr. President, I wanted to comment on the question of literature later and offer some affidavits now on euthanasia and at the end bring up the question of literature.

MR. HARDY: Your Honor, that is perfectly all right, but this is going to come up with all the defendants and I wonder if the Tribunal is in a position to rule on that now, or does the Tribunal want to delay that further?

THE PRESIDENT: The Tribunal will now be in recess for a few minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: With reference to these documents which are under consideration, being extracts from publications which are deemed relevant by counsel, the Tribunal will be inclined to admit in evidence extracts from publications which are approved medical journals, or publications which are recognized generally in the countries in which they are published by physicians and other persons as being responsible publications. That, of course, will require each document to be presented and considered by the Tribunal and the ruling made on each document as it may be offered.

When I spoke of responsible publications, I intended to say publications which are regarded as responsible insofar as medical matters and surgical matters are concerned.

Counsel may proceed.

DR. SERVATIUS: Mr. President, I should like to say something of a fundamental nature about the admissibility of other documents over and beyond the ruling which the Tribunal just made. I should like the whole question to be examined from this point of view. The evidence in this trial refers to the entire legal aspect of the matter, because the prosecution asserts that the defendants have offended the principal penal laws of all civilized countries. There are no laws to this effect, not even in America today. The witness Professor Ivy only said that a commission met which was going to make some regulations of an administrative sort. What the law actually is in the world we can only judge from what has happened. The situation is the same as it is in international law where the effort is made to ascertain international law. The I.M.T. maintained this law always existed and was simply drawing on it. In that case we must proceed as a legislature proceeds. We must have a view of this whole medical field as a whole and take into account the opinions of all, not only the authorities, but also the entire population. For that reason the statements made in the press in articles by less prominent authors are of great importance. They are all a reflec-

tion of real life. We should try to ascertain the situation as a whole. This is a sort of mosaic, which must be assembled. You cannot take only authorities; you must take other voices, too, which are a part. The structure must include all of them. Only from the total facts can real life be seen and ascertained what the real opinion of humanity is.

THE PRESIDENT: As I stated, each document will be considered as it is presented. Suppose you reserve this argument until some document is presented and objected to. We can consider it as concrete when it is presented to the Tribunal as a document.

DR. SERVATIUS: Mr. President, I offer Document Karl Brandt No. 110 as Exhibit 44; that is the paper by Professor McCance in connection with experiments.

THE PRESIDENT: Did you say that was published in "The Lancet"?

DR. SERVATIUS: Yes, and 1936 is the date, a paper by Professor McCance.

THE PRESIDENT: Has counsel for the prosecution any objection to the admission of this document?

MR. HARDY: The prosecution would like the defense counsel to state what is the reputation of "The Lancet", as I am not familiar with it.

THE PRESIDENT: The Tribunal is. The reputation of the magazine is very good; it is an English medical journal.

MR. HARDY: No objection.

THE PRESIDENT: Karl Brandt Document No. 110 will be admitted as Brandt Exhibit 44.

DR. SERVATIUS: Karl Brandt Documents 121 and 117 are not yet translated into English. Karl Brandt No. 117 is an exhaustive document, a doctor's thesis of 1937 regarding the experiments effecting human beings.

THE PRESIDENT: Doctor, these documents will be considered when the Tribunal has before it the translation.

DR. SERVATIUS: Then I will postpone putting in these documents.

Perhaps I can have it as early as tomorrow.

Now comes Document Karl Brandt 94; this will be Exhibit 45. This is an excerpt from the German Medical Weekly, an excerpt from the British Medical Journal 1945, an article by Frances Gardner. This is an article on artificially produced jaundice and its effect on rheumatic arthritis. The purpose of this document is to prove that jaundice is a non-hazardous disease and that volunteers, because it is not dangerous, are willing to submit to it.

The next document, Karl Brandt 105 and Karl Brandt 108, I shall put in as Exhibits 46 and 47. They deal with the same question.

THE PRESIDENT: Just a moment, counsel. Karl Brandt Document No. 94 will be admitted as Brandt Exhibit 45.

DR. SERVATIUS: Then I put in Document KB 105, a work on hepatitis by Professor Neefe. It is an excerpt printed in the Medical Monthly; the article itself is from The American Journal of Medical Science 1945. This document is put to prove that hepatitis is not dangerous.

THE PRESIDENT: That document Brandt will be admitted as Karl Brandt Exhibit 46.

DR. SERVATIUS: Then follows Karl Brandt 108, a paper on hepatitis by the same author, Professor Neefe, an excerpt from the Journal of the American Medical Association, 11 August 1945. This concerns itself with the question of voluntary consent in hepatitis and the volunteers in these experiments were conscientious objectors. It says that the experiments were made possible through the cooperation of the National Board of C.O.'s and the American Friends Service Committee. Volunteers were given hepatitis and I shall later deal with the question of voluntary consent.

THE PRESIDENT: That exhibit may be admitted as Karl Brandt Exhibit 47.

DR. SERVATIUS: I then put in Karl Brandt 109, an excerpt from the periodical "The Lancet" of 12 August 1945. It is entitled "Transmission of Infective Hepatitis to Human Volunteers". This I put in reference to

the question of voluntary consent, too,

THE PRESIDENT: That document may be Karl Brandt Exhibit 48.

DR. SERVATIUS: Next comes Karl Brandt 104; I am not sure whether the Tribunal has that in English.

THE PRESIDENT: Yes, it is contained in this book.

DR. SERVATIUS: This is an article from the Readers Digest of January 1947 entitled "I Starved for Science". This is an article from a fiction magazine which contains semi-scientific information also and there are some scientific works. This a report by a volunteer who, as a conscientious objector, went through a hunger experiment with 35 of his comrades. I put it in first of all in order to refute what Professor Ivy said, namely, that such experiments do not involve pain, simply minor unpleasantness.

MR. HARDY: I shall not object to the introduction of this document but, however, counsel should reserve any argument as to the probative value of this document for the arguments and then the probative value of the document can be determined by the Tribunal. The document is not refuting the testimony of Dr. Ivy. It can be seen it simply states how volunteers subjected themselves to dietic experiments. At the end everyone was happy and they had a whopping party. There is nothing in it to refute Professor Ivy's testimony; that is the reason I am not objecting to it. I think if he has any comment to make on the document it should be reserved for argument.

THE PRESIDENT: The Tribunal is not disposed to admit this offered article in evidence. It will not be received.

MR. HARDY: I understand it will not be received?

THE PRESIDENT: This offered exhibit will not be received in evidence.

DR. SERVATIUS: Mr. President, since I have similar documents here, may I please say the following: if I may use these documents only in my argument then I shall have to bring them to the attention of the Tribunal later in my concluding plea or not even then? Am I understanding you correctly?

THE PRESIDENT: The argument of counsel must be based upon evidence which is received and admitted before the Tribunal and not upon extraneous matters.

DR. SERVATIUS: Then Mr. President I am not in a position to base my argument on anything because I will have no practical case to refer to but must refer only to hypothetical cases. I think I must be given an opportunity to substantiate what I am going to present. I can not rely purely on theory.

THE PRESIDENT: That was what I am trying to say that the arguments of counsel are supposed to be based on the evidence which is before the Tribunal, from the facts and evidence which have been received. That is not limiting counsel's argument to theory but on the contrary gives counsel evidence which is before the Tribunal upon which to base his argument. Counsel, of course, in his argument may draw deductions from matters which are in evidence. He does not have to argue only the evidence. That matter can be taken up later if counsel is in doubt about the argument.

DR. SERVATIUS: I then come to Karl Brandt Document 106, this will be Exhibit 49.

MR. HARDY: Your Honor, for the clarification of the record I want to inform the Tribunal that I did not formally object to the admission of the last document.

THE PRESIDENT: I understand that.

DR. SERVATIUS: Karl Brandt 106 comes from the Journal of Pharmacology and Experimental Therapeutics. This is an essay by Arthur R. Cushman on Mustard Gas from the year 1918. It deals with the question of experiments with Lost Gas, the two methods of administration, in drops being one of them. I put this in because of the chart that is to be found in it, from which it can be seen that the experimental subjects went through it ~~for~~ altogether different periods, from a few seconds to ten minutes, and that here the experiments were of varying lengths of time. I intend to use this in my argument, referring to degrees of voluntary consent, namely, the persons desiring to volunteer for only one second, another person volunteers for the whole minutes. If you will look through the list you will see that the last ones are colored persons and that has something to do with the degree of voluntary consent.

THE PRESIDENT: Karl Brandt Document 106 is admitted in evidence as Brandt Exhibit No. 49.

DR. SERVATIUS: Now comes KB 107, likewise an article from the Journal of Pharmacology and Experimental Therapeutics of the year 1919. This also deals with mustard gas experiments. I put it in to prove that such experiments with Lost Gas have been customary in medicine since 1918.

THE PRESIDENT: The document will be received in evidence as Karl Brandt Exhibit No. 50.

DR. SERVATIUS: Next comes Karl Brandt 110. This will be Exhibit 51, an extract from the Archives of Pathological Anatomy and Physiology and Clinical Medicine, edited by Rudolf Virchow. This is an old periodical from the year 1885. This also deals with the question of voluntary consent. Here a case is described where children in the last stages of infection are experimented on and two of them die. It says: "I reserved to myself the continuation of further culture experiments and I shall not fail to report on any eventual, positive results." This again deals with the question of voluntary consent

of children as far as it is considered possible at all.

THE PRESIDENT: The document will be admitted as Karl Brandt Exhibit No. 51.

DR. SERVATIUS: It would be expedient now if I would deal with Document Book III because there are a number of articles therein dealing with experiments -

THE PRESIDENT: Just a moment, Counsel, wait just a moment.

DR. SERVATIUS: It begins with Document Karl Brandt 45.

THE PRESIDENT: Just a moment, counsel.

MR. HARDY: Your Honor, wouldn't it be more expedient and logical to carry on in this document book he has just given us and have the numbers in sequence so that we will have our document book in rather chronological order as to exhibit numbers and we won't have to jump from one to the other?

THE PRESIDENT: There is a question whether it will be simpler to follow in chronological order or through the exhibit books by subject matter.

MR. HARDY: It is immaterial to me, Your Honor. I can follow either way but it would seem simpler to follow through each book if we are going to hold a book together like that.

DR. SERVATIUS: This is a case of expediency.

THE PRESIDENT: The Tribunal will follow the suggestion by counsel for Karl Brandt and will now take up Document Book III.

DR. SERVATIUS: As Exhibit 52, I should like to put in Karl Brandt 45. This is an extract from the book "Man Against Death" by Paul de Kruif, which is certainly known to the Tribunal. The last two documents are also from a book by Paul de Kruif, the second book being --

MR. HARDY: The last three documents which are extracts from books by Paul de Kruif, the Prosecution strenuously objects to. It is fiction and nothing in the book is based on medical facts and as Dr. Ivy pointed out from the stand he couldn't give an opinion on matters

of this type in as much as it is not approved medical literature. It is written for purposes of the lay reader and not written for the purpose of this Tribunal or for the purposes of physicians and medical studies.

DR. SERVATIUS: May I say something in this regard? Your Honors, the public opinion is not formed by the reading of scientific works, but a book like Paul de Kruif's is known through the world. It can be purchased anywhere and humanity does not ask what the eminent Professor so and so said but bases its opinion on what Paul de Kruif tells him. This opinion has a great influence again on the general opinion of the government representatives in turn since they represent the population. If you would ask anyone's opinion on the medical question he would e.g. refer to this book.

THE PRESIDENT: I did not hear the last, was that a translation of a previous statement or was it only the Interpreter repeating?

INTERPRETER: I said that this book was written for general public, in order to make these ideas understandable to the public as a whole, and has much greater dispersion than a scientific work that a scholar draws up in his study, consequently I believe that it has probative value because it represents public opinion as a whole and should be admitted into evidence.

MR. HARDY: I might ask, Your Honors, what is the purpose of these documents, if that is the purpose of the documents, if it is the purpose to show that like experiments, that the same type of experiments are being conducted as in Germany there might be some consideration, but I can't see for which purpose Dr. Servatius has expressed that he wants them admitted.

DR. SERVATIUS: Mr. President, as far as I know, Paul de Kruif is a professor of biology; he is not a layman. In this book, experiments are described in a clear way; these descriptions give a clear insight into what has happened in the last 30 years. He describes the problem that lies behind the experiments and the difficulties; he gives details also. From many cases here I can approach the question of voluntary consent. For instance, the case of the plastic surgery experiments on the prisoner, where lawyers had to be called in to determine whether the prerequisite of voluntary consent existed. Now Paul de Kruif shows it is not the doctor who decides this and has the responsibility by the director of the prison, in other words, the State. These statements must be admitted as evidence. I could, if necessary, go into this in detail in order to demonstrate this to the Tribunal.

THE PRESIDENT: Well, counsel, the probative value of all exhibits will be before the Tribunal to consider.

MR. HARDY: I did not hear, your Honor.

THE PRESIDENT: I said the probative value of these exhibits will be before the Tribunal to consider and this offered exhibit will be admitted.

MR. HARDY: Now I understood we were discussing the 3 exhibits by Paul de Kruif, is that correct?

THE PRESIDENT: Yes, it is a book. Considering Karl Brandt Document 45.

MR. HARDY: And Document 46, which is also from the same book? And Document 47, written by Paul de Kruif, "Hunger Fighters" which is a fictional story about the pellagra experiments does that also come under your Honors' ruling?

THE PRESIDENT: The Tribunal has made some examination of Karl Brandt Document Book 3 and of the documents offered in that book; they will all be admitted in evidence for what they may be worth, except Karl Brandt Document 49, Karl Brandt Document 55 and Karl Brandt Document 74, which will be rejected.

DR. SERVATIUS: Would you be so good as to repeat those documents numbers, your Honor -- the ones that are not admissible?

THE PRESIDENT: Karl Brandt Document 49.

DR. SERVATIUS: In that case KB-45 becomes Exhibit 52, 46 becomes Exhibit 53 and 47 becomes Exhibit 54. The next, 48.....

THE PRESIDENT: Karl Brandt Document 55 will not be admitted.

MR. HARDY: Your Honor, in connection with all these various documents which Dr. Servatius is introducing to show that non-volunteers were used in other countries, it is the opinion of the Prosecution that the burden of proof is on Dr. Servatius to point out in each one of these publications wherein the description, the status of the subjects used, is elicited; and if the article does not specify this so that we are unable to ascertain whether or not the subjects were volunteers or were non-volunteers, it is clearly irrelevant.

THE PRESIDENT: The probative value of these will be before the Tribunal. Of course, the burden rests upon defendant Brandt, in his brief, to show the probative value of such portions of these documents and what probative value they have.

MR. HARDY: The Prosecution does not clearly understand what each document is introduced for and we would like to have that pointed out whether they are introduced to show whether they were non-volunteers in America or whether they are introduced to show they were volunteers and whether they were conducted so that deaths occurred, or what is the purpose?

THE PRESIDENT: That burden rests upon the defendant, Karl Brandt. Karl Brandt Document 74 is not admitted in evidence. Now the numbers of these exhibits may be put on later. The others are admitted in sequence.

DR. SERVATIUS: I should like to go through these documents in a general way, or does the Tribunal prefer that I reserve this for my final plea?

THE PRESIDENT: Counsel can do that more effectively in his brief, or in a separate brief devoted to this branch of the case.

DR. SERVATIUS: Yes. I do not understand how the exhibits are to be numbered. From Document Book 3 all documents are admitted except 55, 49 and 74?

THE PRESIDENT: That is correct, counsel.

DR. SERVATIUS: Then may we put down exhibit numbers. 48 is Exhibit 55; 50 becomes 56; 51.....

THE PRESIDENT: Counsel, did you read that into the record? Were the stenographers getting that?

JUDGE SEBRING: Counsel, by your leave, the Tribunal will read into the record the manner and the order in which they will receive these exhibits so that it may be quite clear.

Karl Brandt Document 45 will be received as Karl Brandt Exhibit 52.

Document 46 as Exhibit 53,

Document 47 as Exhibit 54,

Document 48 as Exhibit 55,

Document 50 as Exhibit 56,

Document 51 as Exhibit 57,

Document 52 as Exhibit 58,

Document 53 as Exhibit 59,

Document 54 as Exhibit 60,

Document 56 as Exhibit 61,

Document 57 as Exhibit 62,

Document 58 as Exhibit 63,

Document 59 as Exhibit 64,

Document 60 as Exhibit 65,

Document 61 as Exhibit 66,

Document 62 as Exhibit 67,

Document 63 as Exhibit 68,

Document 64 as Exhibit 69,
Document 65 as Exhibit 70,
Document 66 as Exhibit 71,
Document 67 as Exhibit 72,
Document 68 as Exhibit 73,
Document 69 as Exhibit 74,
Document 70 as Exhibit 75,
Document 71 as Exhibit 76,
Document 72 as Exhibit 77,
Document 73 as Exhibit 78,
Document 75 as Exhibit 79
and Document 76 as Karl Brandt Exhibit 80.

DR. SERVATIUS: And now, your Honors, I should like to turn back to my first supplemental volume. Here are some documents referring to biological warfare.

MR. HARDY: The Prosecution objects to the next 3 documents being admitted. The Tribunal could consider them and rule on it without any further comment by the Prosecution.

DR. SERVATIUS: In regard to these documents....I put in KB-118, an article from Popular Science entitled "German Weapons were Ready". This concerns bacteriological warfare and I intend to put it in in reference to the question of humanity. One of the main charges of the Prosecution is that the defendants acted contrary to the laws of humanity. If you cast a glance on the bacteriological warfare that was prepared here and the discussion in this document, you must compare that with what the defendants are charged with. Aside from the fact that bacteriological warfare is also a Count in the indictment, although it is not specified precisely what the defendants are alleged to have actually done in bacteriological warfare. I can only state that here in these articles it is clearly stated what happened on the other side. It can be seen

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from this that it was ~~much~~ more that that the Prosecution is charging the defendants with. That is the reason I wish to put it in. The fact that it appeared in a popular pseudo scientific magazine does not, in my opinion, minimize its probative value. Just the opposite, it proves how popular these ideas were. I should like, at the same time, to put in document 124. That would be Exhibit 82. There it says that the Japanese.....

THE PRESIDENT: Just a moment, counsel -- Karl Brandt Document 118 will not be received in evidence by the Tribunal.

DR. SERVATIUS: Then I put in Document 124. I put it in to prove that in Germany, as counter distinction to what happened in other countries, not much was done in the field of bacteriological warfare. This is an article from the New York Times Overseas Weekly, Sunday, 6 October 1946, and it says here: "United States continues work in field in which Japanese made many experiments." It says here: "The Japanese are known to have experimented considerably with biological warfare but the Germans had done little." This is the reason why I am putting it in.

MR. HARDY: If the Tribunal please, I also object to this document.

THE PRESIDENT: Karl Brandt Document 124 will not be received in evidence.

MR. HARDY: While I am on my feet, your Honor, I object to the next one, Karl Brandt Document 125.

DR. SERVATIUS: I also put in Document 154 for the same reason. It also deals with the question of bacteriological warfare and shows the official attitude concerning the question of the admissibility of such warfare. On page 2 it says: "Some authorities view germ warfare as a horrible and inhumane thing, which this country should use only in self-defense. Major General Alden H. Taft, Chief of Chemical Warfare Service, is spokesman for another school of thought."

MR. HARDY: Before Dr. Servatius continues to read this document, this is Document 125, not 154, your Honor. I wish to again render my objection before he reads the document.

THE PRESIDENT: We are considering Karl Brandt Document 125.

DR. SERVATIUS: Let me say something about this, Mr. President. This states official policy, to be sure, in a popular periodical but whoever wants to wage such war must also carry out the necessary experiments and that can be seen....

THE PRESIDENT: If I understand this document, counsel, it is a condensation by "Reader's Digest" from an article in "Collier's Weekly"; is that correct?

DR. SERVATIUS: That is so, yes.

THE PRESIDENT: The document will not be received in evidence.

DR. SERVATIUS: I should then like to put in evidence KB-113. That's an article from the newspaper, "Stars and Stripes" which has already been discussed before this Tribunal.

MR. HARDY: May it please the Tribunal, the other day, during the close of one of the cross examinations by Dr. Servatius -- I believe it was the examination of Dr. Ivy -- the Tribunal ruled that this document had no materiality and would be inadmissible. This is the one written by the Sergeant published in the "Stars and Stripes".

THE PRESIDENT: Letter to "B Bag" from a Sergeant. The Tribunal has already ruled that this document is inadmissible, and the Tribunal adheres to that ruling.

DR. SERVATIUS: I then come to document KB-114. This is an excerpt from "The People" London, of 3 March 1946. This document also concerns itself in part with the experiments on prisoners. It was in part put to a witness here and I should now like to put it in evidence. It is entitled "Murnberg, Just One More Allied Trick" by Richard Llewellyn.

One particular point -- one passage interests me here which already has been a matter of discussion in this trial; namely, the question of the idea of atonement, and it can be seen that experiments are not approved only for volunteers but for all sorts of people.

THE PRESIDENT: Counsel, in the opinion of the Tribunal, this document has absolutely no probative value and it is rejected.

DR. SERVATIUS: I now come to a series of documents that concern euthanasia, KB-24, as Exhibit 91. This is an affidavit by Anneliene Schmundt. The affiant makes statements regarding a case of euthanasia which was undertaken after the affiant had spoken with Professor Brandt.

It was undertaken against a relative of hers and she says that she hardly knew Professor Brandt at that time, and that the idea of euthanasia was alien to her. "In order to get information," she says, "I asked Dr. Karl Brandt who was very little known to me at that time. His explanations were completely clear and comprehensible, and after careful consideration we had to agree to them, since this meant deliverance of the patient from his sufferings, and deliverance of my 80-year old stepfather, who bestowed infinite pains and money on the support of this boy who never had anything to expect from life."

THE PRESIDENT: Counsel, this document will be received in evidence as Karl Brandt Exhibit — what is the number please?

DR. SERVATIUS: 81, your Honor. The affiant continues that the most striking thing about Professor Brandt was his attitude which was full of sympathy and aroused great confidence and showed his sense of responsibility.

The next document is KB-25 which will be Exhibit 82. This is an affidavit by the Provincial Bishop Wurm.

MR. HARDY: May I call the attention of the Tribunal — excuse me, your Honor, the original has a jurat thereon. No objection.

DR. SERVATIUS: Provincial Bishop Wurm states here that the Reich Health Leader Conti informed him that there was law or at least, legal basis for euthanasia which was, however, not made public for purely political reasons. This concerns the question of the legal permissibility of euthanasia.

The next document, KB-26, I ask to put in as Exhibit 83. This is an affidavit by Count von Schwerin Krosigk. He is personally acquainted with Pastor Bodelschwingh, director of the Bethel Hospital where insane, epileptic and deformed people, as well as other patients, were kept. He says that at that time Pastor Bodelschwingh told him about conversations he had had with Professor Brandt and he says —

THE PRESIDENT: Several of these documents in the document book which I have are now printed in German and not in English.

DR. SERVATIUS: Then Document KB-26 is missing in English, if I understand you correctly.

THE PRESIDENT: Yes, Document 40 also. I now have a copy of 26 in English.

MR. HARDY: I have both of them in my document book, your Honor.

DR. SERVATIUS: I ask your pardon that this omission occurred. This document, first of all, shows Pastor Bodelschwingh's attitude. He told Schwerin Krosigk at that time: "He could understand that, from a medical and political point of view, it might be argued that the painful life of individuals who vegetate like animals should be shortened. He further states that a committee had visited Bodelschwingh at that time, and Bodelschwingh expressed his opinion...."

THE PRESIDENT: Has the Secretary another copy of supplemental documents Karl Brandt 26 and so forth in English?

Proceed, counsel.

DR. SERVATIUS: At the end of this affidavit the affiant testifies regarding Pastor Bodelschwingh's attitude toward Professor Brandt and also about Professor Brandt's attitude toward euthanasia. He says: "He had all the more reason to appreciate the attitude of Professor Dr. Brandt. Dr. Brandt had defended his point of view in a way which really called for respect and Professor Dr. Brandt had also shown complete understanding for Pastor Bodelschwingh's opposite opinion."

This will go to prove what Professor Brandt's real attitude actually was concerning the alleged "extermination of useless eaters."

The next document is KB-40. This is a part of Document 1696-18.

THE PRESIDENT: Karl Brandt Document 26 is admitted as Karl Brandt Exhibit 83.

DR. SERVATIUS: The next one is KB-40, Exhibit 84. This is a letter from the Reich Committee for Scientific Study of Heredity directed to the Director of the State Health Office in Tuttlingen, dated 9 January 1943. It is very brief and reads:

"Thank you very much for your letter of 22 December 1942 with appendix. Since on principle I never send children to the Reich Committee Stations against the wishes of their parents or guardians, I would ask you to consider this matter closed."

A copy went to Dr. Falthausen for information. I think this is a very material point...

THE PRESIDENT: Who signed this letter, counsel? The signature is missing from this document.

DR. SERVATIUS: I don't have the original here. I shall inform the Tribunal of that hereafter. I also am not even sure whether there is a signature on the original or the copy I have of it.

THE PRESIDENT: Without a signature the document will have no value.

DR. SERVATIUS: Mr. President, but it has the same value as all the documents captured by the Allies. It is part of the whole document bundle, 1696, which the prosecution put in. I shall try to have the original again in order to decipher the signature.

MR. HARDY: Dr. Servatius, that is correct, this is a captured document which was in the hands of the prosecution and when we turned over documents on December 4 or 5 to the defense counsel, this happened to be one of them, I believe.

DR. SERVATIUS: The next document is KB 81 and I offer it as Exhibit 85. This is an affidavit by Gerhard Engel, Waffen Adjutant for the Fuehrer Adolf Hitler. He testifies regarding Karl Brandt's position, that he was accompanying physician and had to stay at the Fuehrer's headquarters. He was closely tied to the Fuehrer's headquarters. He produces this to prove that Karl Brandt did not concern himself with the details of organization or carry out the program of euthanasia. That wasn't his task. He further states that Karl Brandt never participated in discussions on the general situation in which current questions were discussed. This is of some significance with respect to Halder's diary, where it says that the euthanasia program had been discussed in a discussion on the general situation at Nowgorod in Russia. The affiant states here that Karl Brandt never took part in such discussions. Finally, concerning the question of membership in the SS, the Waffen Adjutant states here. "I know that Karl Brandt and Himmler lived on considerably bad terms."

THE PRESIDENT: Counsel, apparently a copy of that document in the book before me, KB Document 81, is not complete because it does not seem to contain the statements you read.

DR. SERVATIUS: I shall check on it. Perhaps the translation is faulty. That is admitted in evidence as an exhibit for the time then? I ask because of the number.

THE PRESIDENT: Yes, it may be admitted in evidence as Karl Brandt Exhibit 85.

DR. SERVATIUS: The next document is KB 92, the affidavit of the Minister Hans Lammers and concerns only the authenticity of Bouhler's signature which appeared in Document NO-156. That was Brandt Exhibit 4-a and 4-b. It was unclear at that time whose signature was appended to that document.

Now comes KB 84. I offer it as Exhibit 87. This is an affidavit by Dr. Steinbrecher which concerns the mental institute Dueren which as the Allied troops approached was evacuated. The witness says that Brandt

turned up there and stated verbatim: "Professor Brandt showed great understanding in our situation and offered to participate in our fate." I want to stress that, contrary to the other Party bosses, he did not express a single derogatory word on the insane. I put this in to prove that Brandt's attitude as a whole was a medical one and was not primarily one of extermination of these mentally ill persons.

The next document, KB-86, I put in as Exhibit 88. This is a statement by Grabe.

THE PRESIDENT: The next document on your index is Karl Brandt 90.

DR. SERVATIUS: I should like to insert one document here - KB 86. It must be in the document book in that order. That would then be Exhibit 88.

This concerns a whole series of questions. First of all, the term "Action Brandt" is mentioned here, and it says that a construction program was to be carried out. It shows here that the term "Action Brandt" is very often used and is used to cover a multitude of things. Then it mentions the attitude of Brandt toward half-Jewish doctors, his attitude toward foreigners, and ordered them to be treated like Germans in his hospital. He also states his opinion on the hospital action and the question of transferring patients in view of air raids. It says that the "Brandt Action" had nothing to do with extermination but was done as a precaution against air raids. He says he doesn't know of any cases in which patients were collected and transferred to extermination camps. This refers to special hospitals that Brandt had set up.

The next document is KB 90; I offer it as Exhibit 89. This is an affidavit by Hans Kehrl. He makes statements regarding the question of protection against chemical warfare. It says Karl Brandt concerned himself with the manufacture of protective installations against chemical warfare.

The next document will be KB 100; I offer it as Exhibit 90. I wish the Tribunal to consider especially whether it is admissible. I sent out a circular letter to all 16 hospitals of this "hospital Brandt action" and

asked them all whether they knew anything about a directive regarding transfer of patients to euthanasia institutions. I collected these actions. I have them in my room but I haven't given them in for translation yet because there are too many of them. However, I shall do so if the Tribunal wishes. This is a copy of the letter which I sent to these offices. I had my assistant certify the most important part of its contents. The unanimous answer was that the "Brandt Action" - that they knew of no "Brandt action" according to which patients unfit for work were taken from the hospital and sent to euthanasia institutions regardless of nationalities.

THE PRESIDENT: These cannot be considered until the answers are placed at the disposal of the prosecution and the Tribunal. We can tell nothing about the letters which counsel had sent to the hospitals.

MR. HARDY: I suppose all the answers were given under oath.

DR. SERVATIUS: Mr. President, such a thing of such volume as this could hardly have been done by way of affidavit. It would take too much time. This could only be done in somewhat of a certificate form in order to spare the Tribunal the necessity of making all these translations. Perhaps one of the judges might be appointed as a commissioner who could go through these answers. The IMT proceeded in a similar manner in order to handle their extensive material. I can't put in a thousand letters in evidence here - that would be too great a burden to put on the translation department.

MR. HARDY: If these letters have jurats on them, Your Honor, they can merely be admissible. However, if there are no jurats I don't see the point.

JUDGE SEBRING: If made in accordance with the form adopted by the Tribunal for statements in lieu of oath, would they not also be admissible?

MR. HARDY: When I say a jurat, I also include that regulation of the Tribunal.

DR. SERVATIUS: What I did was have my assistant swear an affidavit

to the effect that he had received these answers and he testified to their contents. I did this purely for reason of expediency and could have the same thing done by affidavit.

THE PRESIDENT: This document will be examined by a member of the Tribunal.

DR. SERVATIUS: This document is then admissible as an exhibit, is it not?

THE PRESIDENT: Yes, this document may be admitted in evidence.

MR. HARDY: This document is merely a statement by the secretary that he has read all the letters that came in.

THE PRESIDENT: Very well, that will be subject to prosecution's objecting to it.

DR. SERVATIUS: The next document is KB-115. I put it in as Exhibit 91. This is an affidavit by Philipp Prinz von Hessen. He expresses himself briefly about euthanasia and says the following:

"During both my altercations - already known and brought down to record - with Hitler and Bouhler regarding the carrying out of so-called euthanasia in my province Professor Brandt was not only not asked to be present, although he could have been reached immediately, but his name was not even mentioned at all. This for me was proof of the fact that Brandt stood outside of the problems pertaining to the carrying out of euthanasia. Also later I never realized or heard that Brandt might have stood as the leading factor behind the idea of euthanasia.

THE PRESIDENT: The document will be admitted as Brandt Exhibit 91, Brand Document 115.

DR. SEWATINS: The next is Document 116. This is an affidavit by Major General Franz Halder, retired. We brought in the question of euthanasia in the Russian occupied territories. He was shown Doc. No. 1758 with a few notes appended to it, and he says regarding it:

"These notes do not really constitute a diary, but are merely pencilled daily shorthand notes, which were to serve as reminders. Regarding the notes concerning asylums I recall that Quartermaster General Agner told me that the possible evacuation of Asylums in the occupied Russian territory was being discussed outside the Wehrmacht and that it was said this might necessitate the killing of mental patients.

"The manner in which Quartermaster General Agner discussed this showed that he was in strong opposition to this idea and I took the same view. I imagine that I would remember if the name of Prof. Karl Brandt had been mentioned in these discussions, as the official mention of the name of Brandt in my sphere of activities would have been quite unusual as all official contact was lacking."

The next document is KB 123. This will be Exhibit 93. This is a chart, a graph, covering the period 1910 to 1945. This is from Document 1696 PS from the Prosecution Document book, page 74.

MR. HERBY: May I inquire whether or not this chart is attached to 1696PS, a captured document?

DR. SEWATINS: Yes; it is in the document book. Only it was smaller and was very difficult to read, consequently I had it redrawn. If I had it photostated again it would have been almost illegible. I had it reproduced and enlarged.

MR. HERBY: Is it part of a captured German Document 1696 PS, is that right?

DR. SERVATIUS: Yes.

MR. HARDY: Thank you.

THE PRESIDENT: What is the document, counsel?

DR. SERVATIUS: This is from the files of the mental institution Kaufbeuren, and refers to the mortality of the children in this institution from 1910 on. This document is of great interest for it shows that in the first World War the mortality rate of the children reached almost 12 per cent, and now if we take the time when Professor Karl Brandt was active in the Reich Committee we see that during the war the curve also rises and rises even as high as 13 percent, but then it drops a bit. It shows that the actual increase in mortality of children goes as high as 26 per cent only in years 1943 and 1944 after Karl Brandt had already left. I think this is good proof that Professor Karl Brandt was not carrying out annihilation here, but that there was some new action; from someone also that caused this. When Karl Brandt was there you find that break in the curve where it drops from 14 to 11 per cent, and it rises after he left. The graph also shows in the last war children died in much the same way as they died in this one.

The next document is KB 85, which I put in as Exhibit 94.

MR. HARDY: I object to the admission of this document in evidence. It is merely a treatise justifying the according of mercy deaths. I don't think that is an issue here. I don't think it would be relevant; I object to it.

DR. SERVATIUS: It is true this is a literature document showing the various opinions toward euthanasia, but it is of great importance for the general attitude that Karl Brandt found prevailed in Germany, and it also shows the connection between the idea of medical euthanasia and the consequence of an economic nature. It doesn't, however, touch the most essential problems of medical

approval of euthanasia. Above all, I submit it because Professor Meltzer, the author, who was himself the director of a medical institution sent out a questionnaire to 200 patients, asking them what their attitude towards the mercy killings of children was. This book study was published in 1925, much earlier than Karl Brandt's time. There were 162 replies altogether - 119 answered "yes", and 43 answered "no". The main point for the reasons why the parents agree or approve or disapprove is above all they emphasize the fact that they don't even want to be asked the question of euthanasia to come up in connection with their children, and Professor Meltzer says most of them say "yes", even those that say "no" don't want to be confronted with this question of conscience, but are agreeable to the acts being carried out without their being asked. Now, just that is a critical point in the charges against Karl Brandt. They are always asking him why parents weren't asked, or weren't informed, in connection with the death of their children. This is a penetration into the psychology really concerned in this matter. This gives us an insight into the thinking of these actually involved and their motives. For that reason I consider it particularly material.

THE PRESIDENT: This document will be admitted,* Karl Brandt Document 85 will be admitted as Brandt Exhibit 94.

DR. SEWATIUS: In conclusion there are a few documents concerning the question of Brandt's membership in the SS, first an affidavit by a soldier by the name of Bonatz, who worked near Karl Brandt for a few months. I think that the attitude toward foreigners is important here. He says: "Above all I would like to stress that he treated the foreigners who were compelled to work there pleasantly and fairly. They said that they had no reason to complain and praised Professor Brandt as a pleasant and kindly man whom they had all reason to esteem."

THE PRESIDENT: What number are you giving it, counsel?

DR. SERVATIUS: Exhibit 95. The next document is KB 78, which I offer as Exhibit 96. This is an affidavit by Luise von Oertzen, chief official in the Red Cross during the war. She says that Professor Brandt's orientation was primarily medical, and he told her at that time he had been violently attacked by Conti and Bormann, because he was predominately a doctor and not a politician.

The next document KB 79 is Exhibit 97. That is an affidavit by Gottlieb Berger, Chief of the SS Main Office, regarding Brandt's position and his functions, in the SS. He says:

"As Chief of the SS Main Office, I only know that Professor Karl Brandt belonged to the SS only as an Ehrenfuhrer. I know of no single case in which Professor Karl Brandt exercised any function whatsoever or took over any task in the SS. He certainly never held any office.

"I consider it impossible that Professor Karl Brandt was one of Himmler's consulting physicians; Himmler had his own doctors."

Now comes KB 80, Exhibit 98. This is an affidavit by Julius Schaub, Hitler's personal adjutant. It makes statements about Brandt's close attachment to the Fuehrer headquarters. It says that Professor Brandt was Hitler's escort physician from 1934, and as such had to be available when called upon. Further, it says Himmler was inimicable toward Brandt; and he describes a case where there was bitter altercation about the status of the medical officer, where Himmler maintains the point of view, first he is primarily a soldier and politician, and only secondly a doctor, and this lead to a considerable altercation. It also says "several times Karl Brandt found the opportunity of interceding with Adolf Hitler, particularly on behalf of the interest of Catholic nurses."

The next is a document KB 83, which will be exhibit 99. This is an affidavit by Josef Brunissen from the French, Alsacia, and he says the following:

"I am a member of the Alsatian clergy and since 1923 have been spiritual director of the abbey on Mount Odile monastery on Mount Odile in France. During the German occupation, the Mount Odile monastery was to be converted into an SS school. The Commissioner General for Health and Medical Matters, Prof. Dr. Karl Brandt willingly intervened in the matter in accordance with my wishes, and succeeded in preventing the conversion of the Mount Odile monastery into an SS school. We are indebted to Prof. Dr. Brandt for the preservation of our monastery and venerable place of pilgrimage."

Now, comes KB 95, as exhibit 100. This deals with Brandt's connection with Professor Guasebart, and says that Brandt gave him assistance in many difficult situations and then everything he got for the civilian population.

And the last document KB 96, I put in as exhibit 101. This is an affidavit by Dr. Wille Gutermuth, Chief physician in the Clinic in Frandjurt on the Main. He makes statements regarding Karl Brandt's medical views and says he was sharply opposed by Conti and the Labor Front. He says also that Karl Brandt's offices did no political work and were not politically oriented.

That concludes my presentation of documents.

Now, Your Honor, I still have two witnesses, Huber and Wessel. I have agreed with the prosecution that I shall produce affidavits from both of them, and I ask permission to do so within a few days. The witnesses have been approved for examination by the Tribunal, but I wanted to put in instead the affidavits.

THE PRESIDENT: Were the witnesses procured by you, counsel?

DR. SERVATIUS: THEY are here in person, but in order not to take up the Tribunal's time, I simply didn't want to put them on the stand.

THE PRESIDENT: You may prepare the affidavits and submit them. For five or six minutes the Tribunal will meet with the committee of counsel, if they are ready to call on the Tribunal.

The Tribunal will now be in recess until 9:30 tomorrow morning.

(Thereupon at 1705 the Tribunal recessed)

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 27 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in court.

THE MARSHAL: May it please your Honor, all defendants are present in the Court with the exception of the defendant Oberhauser, who is absent due to illness. The medical certificate will be presented shortly.

THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in court, save the defendant Oberhauser, who is absent on account of illness. The forthcoming medical certificate will be filed when it is received.

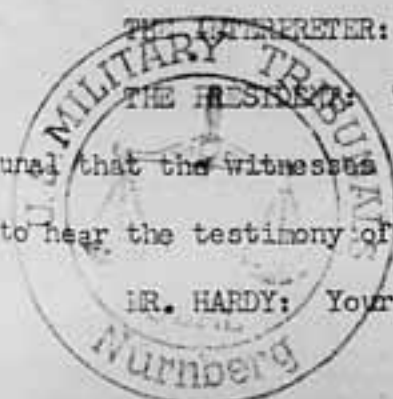
MR. HARDY: May it please the Tribunal, due to some transportation difficulties the witnesses Laubinger and Hoellenrainer were not able to arrive at the Palace of Justice. It is assumed they will arrive in a matter of minutes or perhaps one half to one hour. In the meantime, the Prosecution suggests that Dr. Nelte proceed with the introduction of the supplemental document books in the Handloser case.

THE PRESIDENT: Is counsel for the defendant Handloser ready to proceed with documents on his case, if so, he may proceed.

THE INTERPRETER: The witnesses are here, Your Honor.

THE PRESIDENT: The Interpreters have just informed the Tribunal that the witnesses have arrived. If they have, we will proceed to hear the testimony of the witnesses.

MR. HARDY: Your Honor, the witnesses have arrived. At this



time, the Prosecution would like to call the witness Josef Laubinger to the witness stand.

THE PRESIDENT: The Marshal will summon the witness Josef Laubinger.

(JOSEF LAUBINGER, a witness, took the stand and testified as follows)

BY JUDGE SEERING:

Q Please raise your right hand and be sworn:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEERING: You may be seated.

DIRECT EXAMINATION

BY MR. HARDY:

Q Witness, your full name is Josef Laubinger?

A Yes.

Q Your last name is spelled L-A-U-B-I-N-G-E-R?

A Yes.

Q Witness, have you ever appeared before a Tribunal as a witness before?

A No, this is the first time.

Q I want to instruct you, witness, that in the course of this examination, kindly answer the questions that I put to you and make an attempt to be brief, also make an attempt to fully answer the question. If you have anything you wish to tell the Tribunal, you may do so and inasmuch as this examination is conducted through interpreters, you must pause a moment after you have heard my question before you begin to answer; do you understand me?

A Yes.

Q When and where were you born, witness?

A On 15 June, 1921, in Mitthaupten.

Q Where did you receive your education; if any?

A In Minden in Westphalia.

Q When were you first arrested by the Gestapo?

A In 1943.

Q Had you ever been in the custody of the police prior to March of 1943?

A No.

Q For what reasons were you arrested by the Gestapo in March of 1943?

A I was arrested for racial reasons.

Q That is because you were a Gypsy?

A Yes.

Q After your arrest in March 1943, were you placed in prison?

A Yes.

Q Where?

A In Heilbronn.

Q And were you later transferred from Heilbronn to another prison?

A To Stuttgart.

Q And then where did you go?

A I was taken from Stuttgart on a transport to Auschwitz.

Q At any time during the course of your incarceration did you go to trial; that is were you tried by the Gestapo?

A I don't understand your question.

Q Were you placed before a Court and given an opportunity to be heard prior to the time you were placed in a concentration camp?

A No.

Q After you arrived at Auschwitz, how long did you stay there?

A Not quite a year.

Q Then you apparently arrived in Auschwitz in the spring of 1943?

A Yes.

Q And you stayed there until the spring of 1944?

A Yes.

Q And then you were transferred to another concentration camp?

A Yes, Buchenwald.

Q And how long did you remain in Buchenwald?

A Not very long, a few weeks.

Q And what was your reason for leaving Buchenwald?

A A transport was made up of 44 men; we were told that these 44 men would do clearing up work in Dachau, and we applied for this voluntarily.

Q What did you understand this clearing up work to be?

A I thought damaged houses were to be put in order, etc.

Q Was it commonly known among the inmates that Dachau would be a better place to be than Buchenwald?

A Yes.

Q Was that another reason why you volunteered for the work at Dachau?

A That is why we volunteered, because things were said to be better there than in Buchenwald.

Q Now, after your arrival in Dachau, would you kindly tell the Tribunal what happened to you?

A We spent our first night in the reception block. The next morning we went to the hospital. There we were given a physical examination.

Q Did you also receive an X-ray?

A Yes.

Q And then what happened?

A Then we were weighed and our height was measured.

Q And after your physical examinations, X-rays, etc., were completed, did you leave the hospital?

A No, we were taken to the room in which we had to stay throughout the experiment.

Q When did you first learn that you were to be subjected to

an experiment?

A Not very long thereafter, Dr. Beiglböck turned up and told us that we had to participate in the sea-water experiment. We thereupon answered that we had not come to Dachau in order to participate in any experiment, but to do clearing up work. He responded that the experiment was not bad, no one would die, but we were still very much perturbed because we knew that we could not believe anybody in a concentration camp.

Q. Did you know that the professor in charge of the experiments was named Beiglboeck at that time?

A. No.

Q. Then the name Beiglboeck you have learned since you arrived here in Nuernberg?

A. Yes.

Q. Do you think you could possibly identify the professor who performed the experiments?

A. Yes.

Q. Would you arise from your seat, witness, walk over here to the defendants' dock, and carefully look at the defendants and make an attempt to identify the man who conducted the experiments at Dachau? What number is he? Would you kindly tell us in what place he is in the dock?

A. The third one over in the back row.

MR. HARDY: Thank you. I ask, Your Honor, that the record show that the witness properly identified the defendant Beiglboeck.

THE PRESIDENT: The record will show that the witness has correctly identified the defendant Beiglboeck.

MR. HARDY: You may sit down, witness.

Q. (By Mr. Hardy) Witness, would you kindly, now, and slowly tell the Tribunal just what Professor Beiglboeck told you people when he called you together in the one room prior to the time that the experiments started, in your own words?

A. We were lined up and were examined again by the professor. Since I had now found out why we were really there, I asked the professor to excuse me from this experiment because I had already had two stomach operations. He answered that I could participate in this experiment without any misgivings, that it would cause me no ill.

Then we were shown our beds. I had bed number 7. The experiment was divided into three parts. The one department was pure sea water. The second section was mixed, but what it was mixed with I don't know,

and the third group was distilled water. I tried all three varieties of water. I drank the first and also the second. You could notice no difference between the first and the second so far as taste was concerned. Also I drank the distilled water, which tasted all right except that it was a little salty.

At first we received military rations. That consisted of zwieback, chocolate, and army food. We ate this for seven or eight days - I can't say exactly. When that was over, we received the water. The professor also asked us, "Do you know at all what thirst is? You will find yourself licking the dust from the floor." The whole experiment lasted four to five weeks.

Q. Now, witness, did the professor ask the experimental persons, that is, your friends who underwent the experiments with you, whether or not they wanted to volunteer for the experiments?

A. No.

Q. And you state that the experimental subjects told the professor that they had volunteered for work and not for medical experiments?

A. That is so.

Q. Then Beiglboeck did not ask anyone for their approval, to your knowledge?

A. No.

Q. Did he ask you for your approval?

A. No.

Q. Now, you were placed on a diet, a special diet for a period of seven or eight days, you think?

A. Yes.

Q. Did you have to work during that time?

A. No.

Q. Then you were to drink sea water. Do you know whether or not the water you were drinking was specially treated?

A. Yes, this was the second sort that had been mixed with something.

Q. Can you state how much you received of this water during one day?

A. In the morning, noon, and night we received a glassful, but how much there was in each glass I can't tell you. It was about the size of a beer glass.

Q. What effect did the drinking of this water have on you?

A. It tasted very salty. After drinking it one became thirsty and tired.

Q. Did you feel very sick?

A. We got so weak that we could hardly stand up.

Q. Did you have a fever at all?

A. Yes.

Q. Did you ever become so weak that you were unable to walk?

A. Well, I could stand up, but I had to hold on to something. Otherwise I would have fallen down.

Q. How long were you subjected to drinking this particular water?

A. For eleven or twelve days we drank this water.

Q. Well, did you yourself drink it for eleven or twelve or a less number of days, or can you remember specifically?

A. It was about eleven or twelve days.

Q. Well now, did you ever at any time receive a liver puncture?

A. Yes.

Q. Do you remember when you received that?

A. After the experiment, that is, when the experiments were over.

Q. Did you also receive a lumbar puncture?

A. I don't know what that word means.

Q. Well, that would be a puncture in your back?

A. Yes.

Q. And you received that also at the completion of the experiments, you think?

A. Yes.

Q. Did you ever receive any injections?

A. No.

Q. After the experiment was over, did you have to stay in the room

until all the rest of the experiments were completed?

A. Yes.

Q. Were you examined after the completion of the experiments?

A. No.

Q. Were you weighed after the completion of the experiments?

A. During the experiments we were weighed every day.

Q. Well, after you had completed the experiment and then were allowed to go back to normal life, that is, to eat again and drink again, were you ever weighed after that?

A. No.

Q. Did you receive special food for three or four days after the experiment?

A. No, one day.

Q. Did you get the military food then?

A. Yes.

Q. And then after that did you go back to the usual camp diet?

A. Yes. Mr. Beiglboeck promised us that when the experiment was over we should receive extra rations so that we could recover to what we had been, and we would also get an easy work assignment that we could readily stand, but when the experiment was over Beiglboeck didn't concern himself with us at all after that. We never even saw him again.

JUDGE SEBRING: Mr. Hardy, what was that regular camp diet? The Tribunal would be interested in knowing.

Q. (By Mr. Hardy) Would you kindly answer the Tribunal's question, witness, the regular camp diet? That is not to be confused with the military diet, but the camp diet. Would you tell the Tribunal of what that consisted, please?

A. Mostly it consisted of turnips.

Q. Did you get anything else besides turnips?

A. We had a bread ration, eight men to a loaf. Sundays we got a little butter maybe or jam.

Q. Did you get anything to drink?

A. Yes, coffee or tea.

Q. Anything else? Did you get any cake or anything like that?

A. No.

Q. Any meat?

A. Sundays there was a special meal that contained noodles and there were a few little chunks of meat in there with fresh vegetables.

Q. Well now, after the discontinuation of the experiments you say you did not see Beiglboeck at all after that, that is, after you started eating the regular camp diet again?

A. After that I didn't see him.

Q. Did you eat the regular camp diet while you were still in the experimental station?

A. Yes.

Q. And was Beiglboeck still there, to your knowledge?

A. Yes, he was still there but we never saw him.

Q. Well now, after the experiments were completed, that is, the entire experimental program had been completed, did you then go to the hospital for rest?

A. No. Here is the way it was. Beiglboeck said that whoever felt weak would have a chance to convalesce in the hospital. A friend of mine told me that those who went to the hospital for convalescence would never come out again. I asked how come. He said they would get injections and would die. Of course, hearing this I declined to enter the hospital. I said I was quite strong enough to work.

Q. And did you then go to work?

A. Yes, I went to the block and stayed there only two days, and then I went on a work detail.

Q. Well, did you ever feel sick while you were working?

A. Yes, I felt ill, and if the work Capo hadn't been kind to me, I probably wouldn't be here today.

Q. Now, witness, in the experiments you state that Professor Beiglboeck did not ask you to volunteer. Now, did he promise you that

you would be released after the experiments?

A. Yes, so far as members of the armed forces were concerned. For example, if I had a relative outside who had served in the army or if I had previously done service, then there would be the possibility of my release. Regarding not only myself but several other comrades of mine, it was ascertained that we either had relatives serving in the armed forces or had ourselves previously served. We all had to go to the courtyard. Beiglboeck was there with several other men. He went down the line and asked everyone whose relatives were in the army and wrote down the names, but nothing came of all this.

Q. Did anyone of the inmates attempt to rebel before the experiments started and try to influence the experimental subjects not to drink the water?

A. Yes, there was somebody there whose name I don't remember. He said that if we drank the sea water we certainly wouldn't survive, and he said we should all get together and refuse to drink the water. Beiglboeck heard about this and of course he threatened this person, saying that this was sabotage and telling the man that he knew very well what happened to saboteurs.

Q. Did Beiglboeck tell the man that something drastic would happen to him?

A. He told him he would be hanged if he didn't stop this sort of propaganda.

Q. Well, this particular man who wanted to object and organize a rebellion, did he receive the sea water later?

A. Yes, he did.

Q. In what manner was sea water administered to him?

A. The first two or three times he drank the water, but then, thereafter, every time he drank the water he had to vomit. Then Beiglboeck came with a rubber tube and the water was forcibly poured into this fellow, not the same amount that we were receiving, but an even greater amount. If I am not wrong, it was even as much as two or three liters.

Q. Did Beiglboeck administer this himself to that particular fellow?

A. Yes, he did.

Q. Can you tell the Tribunal whether or not any of the experimental subjects were ever tied to their beds in any manner whatsoever. If so, kindly tell the situation to the Tribunal as briefly as possible and in your own words.

A. There was somebody there who ran about and who did drink water other than the sea water. Beiglboeck investigated and found out that this man had drunk fresh water and had also eaten bread. This fellow finally admitted this, and then Beiglboeck went and tied this fellow to his bed and sealed his mouth with adhesive tape.

Q. Did you see this fellow with his mouth sealed with adhesive tape?

A. Yes, I knew him, but at the moment I don't remember his name.

Q. But you positively saw a man in the hospital or in the experimental station with his mouth sealed with adhesive tape?

A. Yes, that was the next bed to mine but one.

Q. Generally, did Beiglboeck mistreat the prisoners? Did he swear at them or punch them or do anything of a violent nature?

A. No, he wasn't brutal toward us, but his penalties consisted in giving us more sea water to drink or depriving us of other privileges. For example, he withdrew our cigarettes and things like that.

Q. Were any of the prisoners used of nationality other than German? In other words, were there any Poles or Russians or Czechoslovakians?

A. Yes, there were in toto seven or eight Germans, and the rest were all Russians and Poles and Czechs, people of every nationality.

Q. Do you remember whether any of the inmates used in the experiment had to be transferred to the hospital or the sick bay before the completion of the experiments?

A. No, I don't remember.

Q. Did the inmates have to stay in the experimental room all the time, or could they go out into the courtyard?

A. We could go into the courtyard next door under guard. Half an

hour or an hour later we had to go back.

Q. Did any of the subjects used ever become delirious, froth at the mouth, become mad, show any other symptoms of that nature?

A. Yes, quite a few had these attacks. They rolled around on their beds and yelled like little children. Then they got foam at the mouth. Then the professor was called and he took the liver and spinal punctures. After this was over the person in question was given some liquid intravenously, but what that liquid was I don't know.

Q. Do you know from your own knowledge whether or not any of the experimental subjects suffered permanent injury?

A. Yes, I know two. I, for example, still have spells of dizziness, and when I spoke with Hoellenreiter he told me that he still had these spells too.

Q. Can you tell me whether or not any of the experimental subjects died, to your knowledge?

A. So far as I can remember, no, but two were taken on stretchers to the hospital, and these we never saw again. What happened to them, however, I cannot tell you.

Q. Witness, when you first were transferred to the experimental room and you told Professor Beiglboeck that you had had two stomach operations and did not wish to undergo the experiments, why didn't you press the issue further and refuse to be subjected to the experiments?

A. I would have been very glad to do that, but we prisoners didn't have any freedom of action in the camp. We simply had to obey and if we did refuse, we received the penalty for it.

Q. Then you were afraid to refuse?

A. Yes.

Q. Was this opinion frequently expressed among other experimental subjects?

A. Yes, all of them.

MR. HARDY: I have no further questions, Your Honor.

THE PRESIDENT: Counsel for defendant Beiglboeck may cross-examine

the witness.

CROSS EXAMINATION

BY DR. STEINBAUER (Counsel for defendant Beiglboeck):

Q. Witness, in what district and what province were you born?

A. I was born in the Baden district?

Q. What is your father's name?

A. Josef Laubinger.

Q. What was your mother's maiden name?

A. Weiss.

Q. What were your grandparents' names?

A. Laubinger.

Q. Yes, of course, but I mean first and last names.

A. My grandmother's name was Alvina Laubinger.

Q. Were you yourself in the army?

A. No.

Q. Were you in the Labor Service?

A. No.

Q. Were you in Auschwitz in Block 20?

A. Yes.

Q. Do you remember what group you belonged to in the experiments?

A. Group 2.

Q. Wasn't the name of that Schaefer Group?

A. I didn't know that expression.

Q. What was your experimental number?

A. Seven.

Q. When Professor Beiglboeck gave you a physical examination, did he ascertain that you had had this stomach operation?

A. Yes.

Q. Did he ask you whether it still bothered you?

A. Yes.

Q. Were you not, for that reason, refused for the experiment?

A. No.

Q. Don't forget that you are under oath, witness. Isn't it more true to say that you really begged him to let you participated in the experiment?

A. No, it is not.

Q. After the experiment actually began, what did you get to eat?

A. The experiment proper?

Q. Yes, that's what I mean.

A. Nothing at all.

Q. Now, you are excited, Mr. Laubinger. Just relax and think about this. Didn't you receive the so-called emergency rations, cookies, chocolate?

A. That was before the experiment.

Q. No, before the experiment you got good food, jelly and butter and milk and so on.

A. Yes, that is so.

Q. Yes, that's what I wanted to clear up. And then, during the actual experiment you received cookies, coca cola, and chocolate?

A. No, no coca cola. Cookies and chocolate is what we got.

Q. For how many days did you get that food?

A. Three days.

Q. Couldn't it have been four days?

A. No.

Q. How do you know that for sure, if I can prove to you that it was four days?

A. Well, just because I know that it was three days.

Q Is it possible that it was four days?

A Well, it is possible.

Q Thank you. This food that you got, was it very salty or free of salt?

A It was free of salt.

Q That's right, it was free of salt. Then when the Professor made visits, did he visit you and ask you how your stomach was doing?

A He every day visited in the morning and asked us how we felt, whether we were thirsty or matters of that sort - that's so.

Q So he also visited you and asked you how you were feeling?

A Yes, of course.

Q I see. You were visited every morning. How many kilos did you lose?

A That I cannot tell you.

Q Do you happen to remember how much you weighed then?

A No, I don't.

Q But you were a strong healthy man.

A No, on the contrary - we were weakened because of what we had gone through previously in the concentration camp. Then, after not eating during the experiment you can imagine what we looked like.

Q Now, Mr. Laubinger, I have a picture of you here. You look very sturdy indeed. Let me show you this picture and tell me who the first three are?

A I am the third one in the top row.

Q Who are the others before you?

A That is -- I can't remember the name.

Q Well, you must know his name. You were all together there.

A No, I wasn't with him during the last days.

Q The first man you were talking about?

A Yes, he was with me.

Q Yes, you say you were together. And who is the second man?

A That was a Swiss fellow.

Q A Swiss fellow? That's wonderful. And the third one is you?

A Yes.

Q Does it seem to you that you look very weak there?

A Well, this picture was taken before the experiments.

Q Before you got the good food?

A Yes.

Q May I ask that the Tribunal also look at the picture - he is the third man.

Could it be, witness, that you weighed 60 or 61 kilos at that time?

A No, that could never be. I did not weigh that much.

Q But if in the weight charts your weight at entry is put down as 60.5, would you say the Frenchman made a mistake?

A Well, I don't know. Anyway I wasn't that heavy.

Q How much do you think you did weigh?

A I can't tell you.

Q How many days were you in the experiment?

A Just drinking sea water we were in it for 11 or 12 days.

Q Yes, that is so. Did you lose weight steadily?

A Every day, yes.

Q And how long did you lose weight every day?

A As long as we drank seawater.

Q And that you drank for 12 days?

A Yes, 11 or 12 days.

Q Yes, that is so. And you lost weight consistently?

A Yes.

Q Well, I will have to tell you that we have a very complete record on you here. For the four days of sea emergency ration you lost 1/2 kilo in total. And, on the average you lost 1 kilo a day. Can that be so?

A I cannot tell you.

Q Good, but you were weighed every day, you said?

A Yes.

Q And then you stayed another 8 days in the experiment?

A Yes.

Q Well, in those 8 days you got nothing to eat at all?

A Nothing at all. That's right.

Q Can you say this under oath? Please think about this very carefully, Mr. Laubinger.

A You mean during the seawater?

Q Yes. We know what we are talking about - for four days you received sea emergency rations - coca cola

A Coca Cola? We didn't get coca cola.

Q All right, chocolate, cookies.

A For four days.

Q And then for 8 days you got no food at all, is that right?

A Yes.

Q You simply got water to drink?

A Yes.

Q How do you explain the fact that in those 8 days when you got nothing to eat - and everyone is going to lose weight if he doesn't eat for a week - how do you explain the fact that during that time you lost only $1\frac{1}{2}$ kilos, 3 pounds - in all that time - in 8 days of fasting, didn't you get something to eat?

A No, I didn't.

Q Didn't the Professor allow you to eat porridge?

A No.

Q Then, you are trying to tell this Tribunal that you fasted for 8 days and only lost 3 pounds?

A How much I lost I don't know, but I can say that during that time I was given nothing to eat, no bread, no porridge, no nothing.

Q I must tell you that the Professor allowed you to eat a little.

A No, that is not so.

MR. HARDY: Your Honor, I must object to defense counsel arguing with the witness. The witness has testified directly that he was given nothing to eat. I see no cause for argument between defense counsel and the witness.

THE PRESIDENT: Counsel, objection will be overruled, but do not frame your questions to the witness in an argumentative manner. Just ask him direct questions.

Q How do you explain the fact that your comrades who fasted at the same time you were fasting lost 7 - 8 kilos, and you lost only 1½?

A That cannot be.

Q What can't be?

A That my comrades lost so much and I lost almost nothing, as you were saying. I went through exactly the same thing that my comrades went through.

Q So, you insist that you got nothing to eat?

A Yes.

Q In these 12 days you lost first 4 kilos and then 1 kilo and a few grams - let's say in total you lost 6 kilos.

A Well, as I said, I can't tell you how much I lost.

Q But can it be - on 2 September you left the experiment - that on 12 September you had reached the weight that you had when you entered the experiment?

A I don't know.

Q Is it possible?

A No, in view of the food we were getting it is not possible.

Q How many gypsies were there in Buchenwald when the people were asked to volunteer for Dachau?

A I can't tell you the exact number, but there were some thousands.

Q And of this number the 40 volunteered?

A Yes. More would have volunteered if they had been wanted, but they were refused.

Q Then do you remember that when you first met the Professor he made Herzberg the trustee?

A No, I don't remember that.

Q Do you know Herzberg?

A Yes.

Q Is it true that if anything came up the Professor always negotiated with Herzberg?

A He spoke to him now and then, but what they talked about or whether they negotiated I cannot tell you.

Q Now, when you were getting this very good food before the sea emergency rations, did you, as a person with having stomach trouble, easily digest this food?

A Well, I had some trouble, but I was glad to get the food.

Q In other words, you liked it?

A Yes, I did.

Q How about your previous convictions? How many have you had?

A None at all.

Q None at all?

A None at all.

Q Do you have a good reputation in your home town?

A Nobody can say anything against me. Of course, I have a bad reputation because I had a child by a German woman, and under Hitler that was not permitted.

Q No, I am not talking about the old Hitler period. I am talking about now?

A Right now?

Q Since 1945.

A Nobody can say anything against me.

Q You said that you were in Block 20 in Auschwitz?

A Yes, that was the hospital block. I was a guard at the door.

Q Weren't you the Cape there or the room senior (Stubenaltester)?

A No.

Q Now think about this carefully?

A I am.

Q Did you carry the food?

A Yes, I did that in my free time. Sometimes I helped the man who distributed the food.

Q Didn't you take a little bit of this food from your comrades and give it to your mistress, or for yourself and have it cooked?

A No.

Q Didn't you make water available to the gypsies in the morning for them to wash themselves as a foreman in Auschwitz?

A No.

Q Didn't you hit an old gypsy woman in the face so that she fell down?

A No.

Q Didn't you hit the little gypsy children in Auschwitz so hard that they fell down?

A No.

Q Didn't you make them do knee-bends until they fell down?

A No, they did not fall down. There were 3 children there who were so bad that their mother asked me for help. She had no husband or anything. I put them on top of the stove, which was not lit, of course, but it was like a long bench. They stood up there and did knee-bends. That was the punishment.

Q Now, in other words, you are saying what I just said was an exaggeration?

A I certainly am.

Q How much did you ask from the concentration camp fund as compensation for what you have gone through?

A What fund are you talking about?

Q The fund in Stuttgart.

A Oh, yes, 3,000 or 3,500 Marks.

Q You are sure it wasn't 30,000 Marks?

A It certainly wasn't.

Q What much compensation do you really want to ask for -- for the seawater experiments?

A That was no compensation for the sea-water experiments, but simply to get me back on my feet. I am a showman by profession,

and I wanted to have a wagon built -- it's being built now -- but I did not have the money for it. So of course I turned to the concentration camp fund in Stuttgart for this assistance.

MR. HARDY: Your Honor, I do not see the materiality of the rehabilitation of this witness after he got out of the concentration camp; I don't see that that is an issue in this case.

THE PRESIDENT: Objection overruled. Counsel may proceed.

Q Herr Laubinger, the former concentration camp inmate, Pillwein, the former concentration camp inmate Vorlicek, who was brought here as a witness by the Prosecution, the doctor Dr. Lesse, the anti-Nazi soldier Massion, and a gypsy who was also in a concentration camp -- all 5 of these have stated, under oath, that Professor Beiglboeck treated the gypsies well. Do you want to say that all 5 of these men, including the member of your own race who lost every thing, are liars?

MR. HARDY: Just a moment, Your Honor. If the Defense counsel wishes to quote the testimony of Pillwein, Vorlicek, and other witnesses, I wish he would do it correctly. As I recall, Vorlicek, in answer to my questions, did not say that Beiglboeck conducted himself in an orderly manner at all times. This is deceiving the witness in his testimony. I wish he would correctly quote the other witnesses before this Tribunal.

DR. STEINBAUER: I just happen to have the record here; Vorlicek, page 9509. Question: "How did Beiglboeck treat the people who were not in the experiment?" Answer: "Well". More is not being asserted by me.

Q Well, witness, did the professor treat those people well or poorly?

A From the humane point of view he never did us any harm, but he did carry out the experiments in an orderly way and penalized anyone who refused or caused any delay.

Q Did you know Eduard Bamberger?

A Yes.

Q Well, you were together with him here. He must have told you where he lived.

A No, he did not.

Q Isn't he a decent chap?

A All I know about Bamberger is what I found out about him in those 11 or 12 days in that experiment. I did not know him before that.

Q Was he in Buchenwald or Dachau?

A He was in Dachau. He came to the experiments only because he had been promised that if he participated in the experiments -- there was another friend of his there by the name of Taubmann, both these chaps had the escape point, and they were told that if they took part in the experiment they would lose that escape point. But what happened to them after this experiment, I cannot tell you.

Q But they did volunteer, didn't they?

A Yes, they volunteered.

Q And what about this adhesive tape that the professor put over the prisoners' mouths? When did he do that?

A Because the man had drunk water, or eaten, or run around, he was tied to his bed and his mouth was plastered up.

Q Witness, isn't it possible that this was done at the time a tube was put down the man's throat?

A No, quite contrary. This friend of mine was not lying very far from me -- there was one bed between us; I could see him very clearly. When he got his water the plaster was torn away from his mouth and he was given a tube and the water was given him through that tube.

Q That is what I wanted to know. Was this a bicycle tube or was it a thin tube?

A It was a single tube, about an inch in diameter.

Q Was it put through the mouth or through the nose?

A Through the mouth.

Q Did you ever see a tube put down a person's nose?

A No, I never did.

Q Is it possible?

A That might be possible, but I never saw it.

Q So for 8 days in that experiment you got nothing to eat.

A That was more than 8 days.

Q No, you were in it altogether 12 days; for 4 days you got emergency rations and then for 8 days you fasted.

A Yes, that's right.

Q What consequences did you feel from these 8 days of fasting?

A I had attacks of dizziness; then I fell down and don't know what happens after that.

Q Is it true that a liver puncture was made on you, or are you confusing yourself with your neighbor?

A No, it was made on me.

Q Will you please tell us how that was carried out?

A I had to expose my side and lie down. Then Professor Beiglboeck pulled out a needle, 8 inches long or so, and, if I am not mistaken, this needle was in a cover, but I cannot tell you for sure. This needle was pushed between my ribs, and then the needle was pulled out. Then he examined something that had come out with the needle. In some cases it did not come out just right the first time, and he put the needle back in. In some people he put the needle in several times, until he was satisfied with the result.

Q The professor did this himself?

A Yes, he did.

Q Do you know who slept in Bed 20?

A No.

Q In Beds 43 and 44?

A I don't know.

Q Wasn't it your relative, Kiefer? You are related to the Kiefers, aren't you?

A No, I had no relatives there.

Q But you know the Kiefers?

A Yes, I know there was a Kiefer who was with me in the experiment. He was a young fellow.

Q You said there were only 7 or 8 Germans?

A Yes.

Q Don't you think it really was more than that, if I read you all those German names, from Bavaria alone?

A All I can tell you is what I remember.

Q Couldn't it possibly be more?

A Yes, it is possible.

Q Weren't there 2 Mettbachs there?

A Two Mettbachs? There was a Schweitzer - yes, his name was Mettbach.

Q Well, Furth, let me tell you, is in Bavaria. Schmidt?

A Yes, I remember Schmidt.

Q Franz?

A I can't remember him.

Q Adlor?

A Yes, I remember him.

Q Was he a German or a Hungarian?

A I don't know.

Q Hoellenrainer?

A Yes.

Q Bernhard?

A Yes.

Q Herzberg?

A Yes.

Q Bamberger?

A Yes.

Q Hermann?

A I don't know him.

Q Taubmann?

A Yes, I remember him.

Q Now, there, look at this. How about Reinhardt?

A Yes.

Q Weren't there even a couple of Reinhardts in there?

A I only know one.

Q Now, there, look at that. We already have more than 7
Germans. Don't you grant the possibility that there were more?

A Yes, of course I do.

Q Were there Slovaks in the experiment?

A Slovenians, yes, but who they were and how many, I do not
know.

Q Were there Burgenlaender?

A No.

Q Remember a little fellow named Papai?

A Yes.

Q He was from Burgenland, wasn't he?

A Yes.

Q Can you tell me the name of the fellow who was force-fed?

A No.

Q But you say he was only 2 beds away from you?

A Nevertheless I do not know his name. I have thought about
this frequently.

Q You were in Bed 7?

A Yes.

Q Could his name have been Patschowsky?

A I don't know.

Q Then the next man was Mettbach.

A No, it was not Mettbach.

Q Then you don't know what his name was?

A No.

Q Did the Professor pass out very many cigarettes during the experiment?

A Sometimes we got 2, sometimes 3; there were some among us who were very good, and they got an extra ration of cigarettes.

Q How long did the experiment last altogether, do you know that?

A I can only tell you approximately — 4 to 5 weeks, I should say.

Q Can it be true that on the 12th of September it was finished?

A I can't tell you the exact date.

Q Did the gypsies help the professor to clear out the experimental station?

A No.

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Q. Did you come to Block 22?

A. Yes.

Q. Did you meet Mettbach there?

A. Yes.

Q. He said here, as a witness, that he had given you a loaf of bread?

A. I don't know about that.

Q. Did you meet other comrades there?

A. Well, we were in Block 22, but we were in different rooms, one, two, and three, so we met now and again, that is so.

Q. If anyone had died, then you would have found out about it, since you gypsies stick together?

A. No, it was not possible, because about two days after that I was put to work.

Q. Where were you sent to?

A. I stayed in Dachau.

Q. You stayed in the camp?

A. Yes, I did.

Q. Ah, that is very important. You just went out to work during the day?

A. I was employed there in the equipment office, and while I was working there I did not have a chance to talk to anyone. After I was finished work, I was glad to have a chance to rest.

Q. Don't you think that if anyone had died you would immediately have been told about it, that was usual in the camp; was it not?

A. Well, my comrades were really too dumb to do that.

Q. Well, you would not say that Mettbach was dumb, would you?

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A. They were too afraid they would be sent to the hospital or something would happen to them if they told what actually happened to them or things of that sort.

Q. But you do not exclude the possibility that you could have heard of such a death if one occurred?

A. That is possible, but I heard nothing about it.

Q. At any rate, you heard nothing about a death?

A. No, I only know that two were carried to the hospital on stretchers and I saw nothing after that.

Q. When was it that they were taken out?

A. That was during the experiment.

Q. Now, before you answer, please think is it not possible that one of these men was taken away at the very beginning of the experiment?

A. No, that is not possible.

Q. Then, I must tell you that Mettbach said that he was taken away on the first day.

A. That cannot be so, Mettbach went through the whole experiment.

Q. Now perhaps you are mixing up the two Mettbachs. I am referring to the younger Mettbach.

A. I don't know any young Mettbach at all, all I know is the older Mettbach, he was a Schweizer and was with me in the experiment.

THE PRESIDENT: The secretary will file the certificate of Dr. Roy A. Martin, Captain, Medical Corps, stating that the defendant Oberhauser will not be able to be in court today on account of illness.

Just a moment, counsel.

During the recess which the Tribunal is about to take, the witness will be kept in the custody of the Marshal and

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will not be allowed to talk to anyone.

THE INTERPRETER: Your Honor, may I make a correction?

THE PRESIDENT: Yes, go ahead.

THE INTERPRETER: When this witness has been using the word "Schweizer", he is not referring to the nationality Swiss, but to the German word "Schweizer", meaning a dairymen.

THE PRESIDENT: Very well, the record will show the correction. The Tribunal will now be in recess.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. STEINBAUER:

Q Witness, will you please be kind enough to give me your home address and your exact present residence?

A It is Heilbronn on the Neckar, Jaegerhausstrasse, formerly the RAD camp.

Q And this is where you are living now?

A Yes.

Q In order not to misunderstand one another, during the experiment you drank no sea water, only water which had the salt removed?

A No, this water also contained salt. It was the second type.

Q But you don't know that it was called Schaefer water?

A No, I don't know that.

Q But at any rate, it was not sea water?

A Yes, it was sea water, but not as much salt content as the other.

Q Don't you know the names of the two persons who allegedly went to the hospital?

A No, I don't know their names.

Q You went through the hell of Auschwitz?

A Yes.

Q After the experiment, you went into the quartermaster's office, didn't you?

A Yes.

Q Now, if you compare these two concentration camp experiences, don't you think that the quartermaster's office was a comparatively good detail?

A No, on the contrary. I had to do hard work there. I had to transport rifles and machine parts, and we had to do whatever work there was there.

Q Didn't you have to deal with the so-called property room there?

A No.

Q Is it correct that you actually experienced a liver puncture performed on you?

A Yes.

Q Well, where is the scar?

A The scar is no longer visible.

Q Don't you have a little white circle on your dark skin. I am sure that you could see if there was a liver puncture there.

A No, I can't see anything.

Q Would you agree to be given a medical examination to see whether you have such a scar?

A Certainly.

DR. STEINBAUER: In that case, I have no further questions to put to the witness.

THE PRESIDENT: Any further questions on the part of counsel for the defendant Schroeder or Becker-Freysong? Does the prosecution have any redirect examination?

MR. HARDY: The prosecution has no further questions to put to this witness, Your Honor.

THE PRESIDENT: The witness is excused from the witness stand.

(Witness excused.)

MR. HARDY: At this time the prosecution would like to call Karl Hoellenrainer to the witness stand.

THE PRESIDENT: The Marshal will bring the witness Karl Hoellenrainer to the stand.

KARL HOELLENRAINER, a witness, took the stand and testified as follows:

JUDGE SECRING: Hold up your right hand and be sworn. I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(Witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY MR. HARDY:

Q Witness, your name is Karl Hoellenrainer?

A Yes.

Q Would you spell your last name, please? Did you hear me, witness? Spell your last name.

A Yes.

Q Would you spell your last name, please?

A Yes. H-o-e-l-l-e-n-r-a-i-n-e-r.

Q When and where were you born, witness?

A I was born in Fuerth, in Bavaria.

Q What year, what is the date of your birth?

A I was born on the 9th of March, 1914.

Q Prior to the time that you were arrested by the Gestapo, were you ever sentenced or arrested by the police?

A No, I was arrested on the 29th of May, 1944, by the Gestapo. I was sent to Auschwitz from Nuernberg.

Q Witness, just a moment, please. Have you ever appeared as a witness before any Tribunal before this time?

A No.

Q Now, in the course of this examination, witness, I want you to attempt to be brief, yet tell the Tribunal the story of what happened to you, and also try to answer my questions specifically; and due to the fact that I am asking you questions in English and you are answering in German, it is necessary for you to pause a moment after you have heard my question so that it will be properly translated to you before you answer. Now, witness, for what reasons were you arrested by the Gestapo on the 29th of May, 1944?

A Because I am a gypsy of mixed blood.

Q And after your arrest you were sent to the Auschwitz concentration camp?

A Yes.

Q How long did you remain in Auschwitz?

A About four weeks.

Q And then where were you placed?

A I was sent to Buchenwald.

Q How long did you stay in Buchenwald?

A I only stayed there for a few days.

Q And then what happened to you?

A I was in a tent camp in Buchenwald, and suddenly our numbers were called up, 40 men were called, including me, and we were told that we would have to leave for Dachau in order to work there. As soon as we arrived at Dachau we were put in a quarantine block, and one day an SS man came and wrote down our numbers, and they sent us to the surgical department of a certain doctor of the Luftwaffe. I am afraid I no longer remember that physician's name. I know that he came from the Luftwaffe and that he was an Austrian. He examined all of us, and then

we were divided into groups for a seawater experiment.

Q Just a moment, witness. I now want to ask you some brief questions concerning what you have just told us. You state that you went to Dachau to work. Did you consider going to Dachau to be good fortune?

A Yes; a friend of mine, a gypsy, had already been to Dachau, and he told me that the situation was much better and that we would get better food. But that was not the case.

Q Well, did you understand what you were to do when you went to Dachau, what type of work was it, bomb disposal or removal?

A Yes, we went there to work.

Q Did you understand that you were going to Dachau to volunteer for seawater experiments?

A No, never.

Q Now, upon arrival in Dachau you then went to the quarantine block, is that correct?

A Yes.

Q You stayed there for a day or two and were given physical examinations?

A Yes.

Q Did you also get an X-ray examination?

A Yes.

Q And then you were transferred to the experimental block?

A Yes.

Q And there you met a professor, or a doctor?

A Yes.

Q Do you think you would be able to recognize that doctor if you saw him today?

A Immediately, yes. Yes, I would immediately recognize him.

Q Would you kindly stand up from your witness chair, take your earphones off, and proceed over to the defendants' dock, and see if you can recognize the professor that you met at Dachau?

(Witness leaves the stand.)

Q Walk right over, please.

(Witness attempts assault on the defendant Beiglboeck.)

MR. HARDY: The prosecution apologizes for the conduct of the witness, Your Honors. Due to the manner of this examination, the prosecution will have no further questions, Your Honors.

THE PRESIDENT: The Marshal will keep the witness guarded before the Tribunal.

DR. STEINBAUER (Counsel for the defendant Beiglboeck): I have no questions to put to the witness.

THE PRESIDENT: Will the Marshal bring the witness before the bar of this Court? Will an interpreter come up here who can translate to the witness?

Witness, you were summoned before this Tribunal as a witness to give evidence.

THE WITNESS: Yes.

THE PRESIDENT: This is a court of justice.

THE WITNESS: Yes.

THE PRESIDENT: And by your conduct in attempting to assault the defendant Beiglboeck in the dock, you have committed a contempt of this Court.

THE WITNESS: Your Honors, please excuse my conduct. I am very excited.

THE PRESIDENT: Ask the witness if he has anything else to say in extenuation of his conduct.

THE WITNESS: I am very excited and that man is a murderer. He ruined me for my entire life.

THE PRESIDENT: Your statements afford no extenuation of your conduct. You have committed a contempt in the presence of the Court, and it is the judgment of this Tribunal that you be confined in the Nuernberg prison for the period of 90 days as punishment for the contempt which you have exhibited before this Tribunal.

THE WITNESS: Would the Tribunal please forgive me. I am married and I have a little son. And this man is a murderer. He gave me salt water and he performed a liver puncture on me. Please do not confine me to prison.

THE PRESIDENT: That is no extenuation. The contempt before this Court must be punished. People must understand that a Court is not to be treated in that manner. Will the Marshal call a guard and remove the prisoner to serve the sentence which this Court has inflicted for contempt? It is understood that the defendant is not to be confined at labor. He is simply to be confined in the prison, having committed a contempt in open court by attempting to assault one of the defendants in the dock.

MR. HARDY: At this time, Your Honor, the Prosecution will request a brief recess, if Your Honors please.

THE PRESIDENT: Very well, the Tribunal will be in recess for a moment.

(A recess was taken.)

THE MARSHALL: The Tribunal is again in session.

THE PRESIDENT: I desire to inquire whether or not stenographers have made a record of the recent occurrence, in the course of which the Tribunal found it necessary to sentence the witness Karl Hoellenrainer for contempt?

MR. HARDY: The court reporter for that time has left the courtroom. We will check if the President desires it to be in the record.

THE PRESIDENT: In order to make the record clear, I will state for the record that the witness Karl Hoellenrainer, having been called to the stand and duly sworn, and a few preliminary questions propounded to him, was requested by counsel for the prosecution to identify the defendant Beigleboeck. In order to do so the witness advanced toward the dock and at approximately 1125 hours on this morning of Friday, 27 June 1947, as he approached the dock, suddenly sprang over the rail of the dock and attempted to assault the defendant Beiglboeck. The witness was promptly placed under restraint, and the Tribunal directed that he be brought before the Tribunal to be punished for a contempt of court committed in open court by his attempted assault upon the defendant Beiglboeck. The witness was asked if he had anything to say in extenuation and simply pleaded his excitement and the strain he was under and that he yielded to the impulse of the moment upon identifying the defendant Beiglboeck in the dock. The Tribunal thereupon sentenced the witness to confinement to the Murnberg Prison for a period of ninety days for a contempt committed in open court, the defendant to be confined but not put to labor.

MR. HARDY: The prosecution has no further testimony to offer at this time, Your Honor.

THE PRESIDENT: Is Counsel for the defendant Handloser ready to proceed?

DR. NELTE: (for the defendant Handloser): Mr. President, gentlemen of the Tribunal, the submission of evidence in the case of the defendant Dr. Handloser was broken off on the 20th of February 1947 by the

submission of the document HA 30, Exhibit 51. The Tribunal has temporarily admitted into evidence a number of documents for the defense. It has accepted them subject to the submission of the proper oath in the prescribed form. In that connection I have to mention document HA 42, which has the temporary Exhibit No. 19, and also document HA 3 which has the temporary Exhibit No. 21.

THE PRESIDENT: Counsel, there has been handed to the Tribunal one file of these documents. Are there no other files available for the members of the Tribunal?

DR. NELTE: I asked the Secretary General to submit these documents to the Tribunal by handing him that file yesterday. I asked him to see to it that the Tribunal would have today available the translated and mimeographed document. I had believed that that would be possible by this morning. All the documents have been translated and mimeographed. They have been made available in sufficient numbers for the benefit of the Tribunal.

MR. HARDY: Anticipating further difficulties in the presentation of the defense counsel's supplementary documents, I would suggest that if possible the defense counsel could start out and make an index that the Tribunal can use and that the prosecution can use, such index containing Exhibit No. 1 through to the final exhibit which they wish to introduce. I have before me now about eight or nine document books or supplemental sheets for the defendant Handloser; I feel certain that Dr. Nelte has no intention of introducing each and every document in those eight or nine supplementary editions that I have. However, in order to follow him and in order to follow the future presentation of documents, if we were provided with these indexes, then we could follow the presentation more readily and discard the documents which they do not intend to introduce, and then we could properly assemble the exhibits in one folder or two folders as the case may be, completely disregarding the superfluous documents. I think that would be the only

way I could work it out. I have several documents, and each time Dr. Nelte reads off a number it will take me a considerable number of minutes to find the document involved. We shall go on now and see if we can follow. But in the future if the defense would follow that it would be most helpful.

THE PRESIDENT: The suggestion of the prosecution appears to the Tribunal to be excellent. If that plan can be followed by defense counsel it will make matters easier for the Tribunal and opposing counsel. My question in the first place was directed to the fact that the Tribunal has on the bench only one file of these affidavits. There must be more available. I would ask Mr. Hardy -- the secretary is absent for the moment -- if during the noon recess he could see if these documents are not available in the office of the Secretary-General so that each member of the Tribunal could be provided with a file.

MR. HARDY: I must say that Dr. Nelte has been most helpful in that he has given me a folder containing the documents which he wishes to introduce as supplements, but I am unable to ascertain what he left off and if he is going to use some of the others, and if these indexes can be provided at a later date, we can proceed with this group of documents which he will offer as supplements and introduce formally now. I presume the Tribunal has one set put in one folder as I have.

THE PRESIDENT: The Tribunal has one set.

DR. NELTE: Mr. President, this file is the one which I personally submitted yesterday, when distributing the documents; however, a number of copies are provided for the Tribunal as well as for the prosecution, and I assumed that these documents would already be in front of the Tribunal at the time I started my submission.

THE PRESIDENT: Evidently the Secretary-General has just arrived.

MR. HARDY: Dr. Nelte does have before him Your Honor, a rather detailed index starting with Exhibit No. 1 and going through Exhibit No. 77 as I see it here, which is just what I was referring to. If he

could have that mimeographed, even in the German language as it is now, without translating it, it would be decidedly helpful, and then we could take our document books and supplements and weed them out and have what he has presented to the court.

THE PRESIDENT: During the noon recess you can endeavor, Counsel to assist Dr. Nelte in seeing that the mimeographing process moves along as rapidly as possible.

DR. NELTE: I have just explained that I submitted a number of affidavits during the case of Handloser which received only temporary exhibit number. Before starting the further submission of evidence, I should like to submit these three affidavits again in the proper form, as desired by the Tribunal. This is the affidavit by Shaefer, document HA 42, Exhibit No. 19. Shaefer has now submitted the affidavit in the form as prescribed by the Tribunal, and the same holds true of the affidavit of Professor Rodenwald, which is Document HA 3, Exhibit No. 21, and finally the affidavit of Professor Frey, which is Document HA 52, Exhibit No. 31. I submit these three formal affidavits to the Secretary-General, and I now ask the High Tribunal to convert the provisional admission of these documents into a final admission.

THE PRESIDENT: Has counsel for the prosecution examined these documents? Is counsel satisfied that the proper jurat is attached? The secretary will hand him the original documents.

MR. HARDY: This merely a formality. At the time that the documents were introduced, we objected to them because of lack of jurat. The three supplementary pages contain jurats duly notarized or signatures sworn to, so the prosecution withdraws any objection.

THE PRESIDENT: It appearing to the Tribunal that Handloser Documents HA 42, HA 3, and HA 52, Exhibits respectively 19, 21, and 31, are now in order, those three exhibits are received in evidence on behalf of the defendant Handloser.

MR. HARDY: I might add, Your Honor, that you will find the

affidavits in Handloser English Document Book No. 2; wherein you will find Handloser Document No. 3, which is Exhibit 21, Handloser Document 42, which is Exhibit 19; and in Handloser Document Book No. 3 you will find Handloser Document 52 which is Exhibit 31.

THE PRESIDENT: I will return these three pages to the Secretary, who will see that they are properly attached to the exhibits.

DR. NELTE: I should now like to ask the High Tribunal to give me a decision regarding the admission of a letter written by the prelate, Kreuz. This is Document HA 39, which has been provisionally admitted as Exhibit 41. This can be found on page 3262 of the German record. After the Prosecution had raised an objection to this document, the President rules as follows: "It appears from the evidence offered that it is an answer to a letter by Dr. Nelte, dated the 4th of January. If Dr. Nelte would submit a copy of the letter written to Dr. Kreuz, the Tribunal would have something before it in order to make a decision. Document HA 39, as it is before the Tribunal, now is clearly not admissible, as it is merely a letter. If Dr. Nelte can submit a copy of the letter to which this is the answer, the Tribunal will then be able to make a decision regarding the admissibility of Document HA 39 later." I have relied to have Prelate Dr. Kreuz add to his letter the jurat as prescribed by the Tribunal. On 19 March, 1947, I informed Military Tribunal No. 1 that the Prelate Dr. Kreuz because of basic principles has refused to give an affidavit in lieu of an oath, and I asked the Tribunal to admit the letter without the jurat, since it is of particular value to me with reference to Dr. Handloser's character, and I referred to Article III, Ordinance VII.

In my letter of 3 March 1947 I also applied to the High Tribunal, in case the Tribunal should not want to admit this letter in spite of its importance, to approve the Prelate Dr. Kreuz as a witness, and ask him to come to Nurnberg. I have no decision of the High Tribunal in answer to this application, and I am asking you now to tell me whether I may assume that this letter of the prelate Dr. Kreuz, Document HA 39, is finally admitted as Exhibit 41 or whether the Tribunal desires to make any other decision in that connection.

THE PRESIDENT: The Tribunal understands that the matter rests before the Tribunal in exactly the same situation as it was when first presented; is that correct, Dr. Nelte?

DR. NELTE: I have conformed with the wish of the Tribunal and

submitted my letter to the Prelate Dr. Kreuz, on 19 March 1947. The Tribunal desired to see my letter to him in order to be able to decide whether the answer of the Prelate Kreuz can be admitted in evidence.

THE PRESIDENT: Has counsel for the Prosecution any comment?

MR. HARDY: I have no comment to make, Your Honor.

THE PRESIDENT: Upon the record before the Tribunal, the letter from Dr. Kreuz, if I understand his name correctly, is not admissible, and the Tribunal is not disposed to summon Kreuz as a witness.

MR. HARDY: Inasmuch as the letter is a character reference of Dr. Handloser, the Prosecution withdraws its objection without prejudice, even though it doesn't meet with the requirements of the Tribunal.

THE PRESIDENT: In view of the statement of the Prosecution, the letter by Dr. Kreuz to Dr. Handloser will be admitted in evidence, attached to a copy of Dr. Handloser's letter to Dr. Kreuz, which Dr. Nelte would certify to be a copy of the letter which he wrote to Dr. Kreuz. That may be admitted in evidence under those circumstances as Handloser Exhibit 41.

MR. HARDY: Your Honor, I have a problem to take up here. Dr. Nelte has, as Handloser Document 52, in Document Book 3, as Handloser Exhibit 31, just submitted a jurat. This Document 52 has a jurat already, but Document Handloser 10 from the same affiant does not have a jurat, and I assume that this jurat from the same affiant should be attached to Handloser Document No. 10 and not Handloser Document 52. I offhand do not know the exhibit number of Handloser Document 10. That is to straighten that one out.

I also might call to Dr. Nelte's attention that he has given us a jurat for Handloser Document 42, which is Exhibit 19, and that document already has a jurat on it. Perhaps this jurat also should be attached to another document. Maybe he could clear that up at recess, Your Honor.

THE PRESIDENT: We will pass that now until the noon recess, which

will occur in a few moments, and then it can be cleared up and the matter clearly stated to the Tribunal when we reconvene.

DR. NELTE: It has a jurat, but not in the form which was prescribed by the Tribunal during the latter part of the proceedings. The original formula was in compliance with the general idea of submission of an affidavit, but does not contain any reference to punishment.

MR. HARDY: Does that also apply to Handloser Document 10?

THE PRESIDENT: I would suggest that those matters be discussed between counsel during the noon recess, and report made to the Tribunal when we reconvene.

Counsel may proceed.

DR. NELTE: I now submit an affidavit by Professor Dr. Wirth, who was the head of the Pharmacological Institute of the Military Medical Academy. This is M 56. I ask you to accept it as Exhibit 52.

THE PRESIDENT: Counsel, you just gave us the number of Exhibit 56, I understood. Oh, Exhibit 52, I see.

DR. NELTE: Exhibit No. 52.

JUDGE SEERING: What document book, please?

DR. NELTE: It is in no document book, but can be found in the book I today submitted to the Tribunal. You will find it to be the fourth document, coming after the three affidavits which I have just submitted. Point one of this affidavit refers to Prosecution Document NO 154. It refers to a report which was submitted by the Prosecution. I asked Professor Wirth to state in this affidavit his position with reference to page 3 of this report, where it says: "A third series of experiments was carried out with a representative of the Lost group, with nitrogen Lost, according to the suggestion which was made by Oberstabsarzt Professor Dr. Wirth on the occasion of a conference with the Reich Commissioner Professor Dr. Brandt on 4 December 1944." As it can be seen from the report, this series of experiments was carried out in the concentration camp of Neuengamme.

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Since the Prosecution mentioned this suggestion by Professor Wirth in order to incriminate Professor Handloser, by alleging that he was the superior of Professor Wirth, I considered it proper to hear Professor Wirth's attitude with reference to this accusation. In this affidavit, which I shall not read in its entirety, he states that he actually did participate in the conference of December 1944, but that from a material point of view it is entirely impossible that he actually made any such suggestion. In this connection I should like to draw the attention of the Tribunal to the fact that this conference took place on 4 December 1944. On 1 September 1944, Professor Handloser was released from his position as Army Medical Inspector. If there had been any connection at all between Professor Wirth and Professor Handloser during the time Professor Handloser was Medical Inspector. Roman numeral II of the affidavit deals with the purpose and significance of the meeting of Consulting Physicians, and further whether these meetings could induce the Prosecution to allege that the participants in these meetings were planning war crimes and crimes against humanity. I merely refer to the answer to the question contained in Roman numeral II and Roman numeral III.

THE PRESIDENT: Dr. Nelte, the Tribunal will receive the document in evidence. I will ask that during the noon recess the secretary, Dr. Nelte and counsel for the prosecution as far as possible will endeavor to assemble a set of these documents in English which Dr. Nelte is attempting to offer. I find that these before me show some in German and some in English. If each member of the Tribunal could have a copy in English it would help a great deal.

The Tribunal will recess until 1:30.

(Thereupon at 1230 the Tribunal recessed until 1330)

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AFTERNOON SESSION.

(The hearing reconvened at 1330 hours, 27 June 1947.)

THE MARSHAL: The Tribunal is again in session.

DR. TIPP: (Counsel for Defendants Schroeder and Becker-Freyseng.) Mr. President, the supplemental documents for Professor Schroeder, which I wanted to put in today, have not yet been translated. I do not want to take the Tribunal's time twice and consequently ask permission to put them in at the same time as I put in the supplemental documents for Dr. Becker-Freyseng. I hope that both of these groups of documents will be translated by tomorrow or Monday.

THE PRESIDENT: Very well, counsel, you may follow that procedure. The Tribunal desires to suggest to defense counsel..... Dr. Tipp, just a moment. The Tribunal desires to suggest to defense counsel that in order to expedite procedure they assemble the supplemental documents which they desire to enter and have them prepared in sequence as Dr. Servatius did yesterday and then submit them to the Tribunal at the earliest possible date.

If any of those supplemental documents can be submitted to the Tribunal tomorrow, the Tribunal would appreciate it. There are not many defense counsel here present, but if those who are present will advise the other defense counsel of what I have said, the Tribunal will be obliged.

Counsel may proceed.

DR. NELTE: Mr. President, I offer three copies of a list of the documents for Professor Handloser. Numbers 1 to 51 have already been put in, and Documents numbers 52 to 72 I intend to put in. This list is in triplicate, and for the bench I have a list only of the documents that have not yet been put in. I hope this will suffice for the future pursuit

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of my case for the defendant Handloser. The Prosecution also has such an index, and during the noon recess we attempted to put the documents in order according to this index.

THE PRESIDENT: Counsel, as for this list of documents, how many of them did you say had already been admitted in evidence; up to what number, up to 51?

DR. NELTE: Numbers 1 to 51 and this morning Document No. 56, which is Exhibit No. 52. If the Tribunal will permit, I shall begin with Exhibit No. 53, which is Document H A 32.

THE PRESIDENT: Proceed, counsel.

DR. NELTE: Document H A 32 is a certificate by the Prior of the Abbey Maria Laach. This is on page 46 of Document Book 2. The putting in of this document was previously postponed until an affidavit could be drawn up in this form. I now put this evidence in. This will be Exhibit 53.

Please then associate this affidavit with the statement on page 46 of the Document Book 2. I wish to read only a part of it.

The undersigned herewith "Benedictine Abbey Maria Laach," states that Professor Handloser, former generalsoberstabsarzt and Chief of the Wehrmacht Medical Service, during his activity as Armeearzt in the Eifel district from November 1939 until May 1940 was frequently a guest at our abbey. It was important to him that the army hospital that was accommodated in our house give every consideration possible and that the persons in the cloister should receive all possible medical care. When the army left, Dr. Handloser, instructed the replacement unit, particularly the doctor of the Defense District 12, Wiesbaden, to see to it that a hospital unit should always be accommodated in Maria Laach. He hoped that he would in this way protect the monastery from being closed

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up, which was a threat to all monasteries at that time. Since Prof. Handloser had in the meantime been promoted to Army Medical Inspector, we felt the effects of his friendship in all our subsequent dealings with the Army Medical Authorities. The intention was realized and the Abbey Maria Laach did remain in the possession of the Benedictines."

THE PRESIDENT: Counsel without endeavoring to control your action to any extent, even the slightest extent, to the prejudice of your client, I would suggest that you read from these documents now only matters of greatest importance to your client. These documents when they are received in evidence will be available to the Tribunal, and in your brief, which we will study carefully in writing the judgment, you can then either quote from these documents or call attention to those portions of the documents which you particularly desire to call to the attention of the Tribunal. That is really a more effective method of bringing these matters to the attention of the Tribunal, than it is simply to read a considerable portion of these documents into the record now, because you may rest assured that the Tribunal will give your brief, when they come to study the case, the most careful consideration.

DR. HILTE: I will restrict myself to the absolute minimum, Your Honor. May I ask you first to state that Document IM 32 is now accepted as Exhibit 53?

THE PRESIDENT: Counsel is correct.

DR. HILTE: Now I offer Document IM 57. This is an affidavit by the director of the University Skin Clinic in Berlin, Prof. Dr. Locho. This is a statement about the conferences of the Consulting Specialists. Since the Tribunal has already heard about the purpose of the conference of the Consulting Specialists, I ask permission to put this document in as Exhibit 54, but will not go into any details about it.

JUDGE STEINER: Doctor, is that the certificate or the affidavit from Professor Dr. E. Locho?

DR. HILTE: That is right, yes, Professor Dr. Locho.

I come now to a series of affidavits that I shall put in without entering upon them in detail. They are being put in evidence because they were sent to me spontaneously, without my having requested them and without Professor Handloser or any one of his relatives having requested.

then. Such affidavits - most of them are letters - serve to make Professor Handloser's character clear, and, as Dr. Hardly said this morning, a recognition of Handloser's true personality is of great importance in this trial. I ask therefore that these documents be admitted in evidence: Document III 58 is an affidavit from one Dr. Stoecklein, which will be Exhibit 55. Then there is an affidavit from Dr. Ludwig Blum. This is III 59, and will be Exhibit 56. Likewise the affidavit by Dr. Kirt, III 61. This will be Exhibit 57. Document III 62 is an affidavit by Generalarzt Dr. Wolfgang Schmidt-Bruckner. The Tribunal approved this Dr. Schmidt-Bruckner as a witness in the case for Handloser. He was the chief of Staff in the Army Medical Inspectorate from 1 January 1941 to 31 August 1944. After months of efforts on the part of the Secretary General it was ascertained that Dr. Schmidt-Bruckner had been released from the prisoner-of-war camp after his case had been reviewed by the English military authorities. Dr. Schmidt-Bruckner immediately declared his readiness to appear as a witness, but had an unfortunate accident that made it difficult for him to travel.

THE PRESIDENT: What is this document number, Counsel?

DR. HENRY: That is Document III 62, Exhibit 58.

THE PRESIDENT: Correct.

DR. HENRY: Consequently, I asked Dr. Schmidt-Bruckner to make his testimony in the form of an affidavit. I informed the Prosecution of this fact, and when I received the affidavit, I showed it to the Prosecution for their information. In the letter of 20 May 1947, the Prosecution stated that they would forego cross examination of this witness. This affidavit is of the utmost importance in the case of Handloser, because this is a man who was most intimately informed about Handloser's activities. Generalarzt Schuerfner, the Chief of Staff of the Army Medical Service, has been heard here, and this affidavit from the Chief of Staff of the Army Medical Inspectorate is the supplementation to that testimony. These two Chiefs of Staff were Handloser's representatives or deputies during his absence. They were his eyes and ears and

and right hand. Everything that was addressed to Handloser or was answered by Handloser went through them. For the purpose of simplification both Schuorfler on the stand and Schmidt-Bruckner in this affidavit were shown Handloser's statements in his affidavit regarding the organization of the Medical Inspectorate of the Wehrmacht. This is HA 29, Exhibit 4. Both chiefs of staff certified to the correctness of this affidavit of Handloser's. I wish to read brief excerpts from this affidavit of Dr. Schmidt-Bruckner, which, as I said, is of particular importance, because it appears to me important to put them into the record. On page 2, paragraph 2, Bruckner says as follows:

"I should like to make it quite clear that in my position as Professor Dr. Handloser's Chief of Staff I was bound to have full knowledge of any fundamental question or happenings which were considered important in the sphere of the Army Medical Inspectorate. Generally I can say that during my term of office I had no knowledge of anything concerning tests and experiments in concentration camps or in the domain of the SS, such as are the subject of the indictment in this trial. If I had known of these inadmissible experiments, which are contrary to all recognized medical principles, I should certainly have submitted a letter reporting them to Professor Handloser. In the same way, I am convinced that if such a case had occurred, Professor Handloser would have done everything which was within his official power to draw the attention of the responsible authorities to the matter. This conviction is based upon my long years of close collaboration with Prof. Handloser and the knowledge I have thus gained of his personality."

I should like to draw the attention of the Tribunal, however, to the affidavit as a whole, Document II. 62, which with the permission of the Tribunal will be Exhibit 58.

The next document is an affidavit by Professor Tyer. Professor Tyer was the director of the Institute for Typhus and Virus Research in Cracow. Prof. Tyer camp doctor in the camp Becklinghausen, but he fell ill. In view of the importance of this witness, I informed the Prosecution

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when I went to the Becklinghausen camp, and I took the following affidavit from Professor Eyer, from which I shall read only the most important passages here, namely, the passage referring to the well-known Eyer-Schmidt in February, 1943, and the passage referring to the shipments of lice.

"I was head of the Institute for Typhus and Virus Research of the OKH in Cracow. It is correct that early in February 1943, I was in the concentration camp Buchenwald with Dr. Bernhard Schmidt. It happened thus: We had produced yellow fever vaccine by order of the Army Medical Inspectorate, and to my knowledge had already delivered it at this time to the Military Medical Academy, Hygiene Section. I had constructed a new storage container, and one day received the order to demonstrate this storage container to a unit of the SS. Dr. Schmidt and I went to Weimar and were picked up there. We drove to Buchenwald. In a barracks there I showed Dr. Ding and several other persons in white coats the use of the new container and how to dissolve the dry vaccine. Several persons were also vaccinated. After this we were shown the kitchen, supply rooms and hygienic equipment.

"At this time the camp was not occupied. Apparently the people were at work. We were in the camp one to two hours. I emphasize particularly that we were told by nobody at all that typhus and other experiments were being carried out on the concentration camp inmates there. I knew nothing of this. That was the first and the last time that I saw a concentration camp.

"We went back to Berlin and I immediately went on to Cracow. I spoke to no one from the Army Medical Inspectorate. Where the camp Buchenwald got the yellow fever vaccine which it later used for inoculation, I do not know. We left only the opened demonstration ampules there. No vaccine of any kind was ever delivered from Cracow to Buchenwald. We delivered to the main medical supply depot or when so directed, to other units but never to SS units of any sort. Neither did we ever send infected lice to Buchenwald from either Cracow or Lemberg.

"I know Dr. Haas. He was the head of the Behring Institute in Lemberg. This was a branch of the Behring Works in Marburg and had nothing to do with the Wehrmacht or in particular with our institute."

Please accept this affidavit in evidence as Exhibit 59. Mr. President, the Prosecution has offered excerpts from the printed reports of the work conferences of the Consulting Specialists. These are documents 921 to 924, Exhibits 434 to 437. There is an omission in connection with these documents.

First of all, they do not present any unified picture. Secondly, if excerpts are taken and the parts left out are not known, a picture can be conveyed which does not correspond to reality. For this reason Professor Handloser, in Document Book 1, as HA Document 2 and Exhibit 37, has brought evidence regarding the purpose of these conferences, and in the same document book, on pages 17 to 20, has explained that on the problems of dysentery and freezing there were conferences every year in which medical knowledge was ascertained and supplemented. In the same document and also in Document 2-A, Exhibit 37, he drew up a typical agenda for such a conference from which it can be seen how many problems were discussed.

In order to give a true total picture of these conferences I have had Dr. Handloser take a few excerpts from these four books and have them translated and put in evidence. This has been done. Under NO-922, that is a prosecution number, there are also those excerpts translated which are to be put before you by Professor Handloser.

Now, I think that in order to avoid confusion I should give this document, NO-922, a special exhibit number in the Handloser case. Moreover, Professor Handloser, has put in an affidavit which will make it unnecessary for me to go too deeply into this problem in my final brief.

Regarding the question of freezing, typhus, and hepatitis epidemica — all concepts which we know from this trial — he has made remarks which he and I both believe will show the real integrity of the medical activities of the German Wehrmacht.

I offer the affidavit of Prof. Handloser, HA-75 which has not yet

been translated, let me say again, which has not yet been translated. It is here in the original. To avoid later repetition, and leaving the Prosecution the full right to object, I should like to put in this affidavit along with the other documents that have been copied, as Exhibit 60, and the excerpts from the conference reports will be put in as Exhibit 60-A.

MR. HARDY: Your Honor, this procedure is agreeable to me, but I don't have the extract of 922. I have the extracts of NO-921, 923, and 924, but I can't find the 922 extract.

THE PRESIDENT: I have here an extra copy of 922. Will the Secretary hand this to Counsel for the Prosecution?

MR. HARDY: I have it here, excuse me, sir.

THE PRESIDENT: You have it now?

MR. HARDY: Yes. As I understand it, the extract from Prosecution Document NO-922 is being marked for convenience as Handloser Exhibit 60-A.

DR. NELTE: Yes.

MR. HARDY: Thank you.

THE PRESIDENT: Was that 60-A or was that 60?

MR. HARDY: 60 is the Handloser affidavit accompanying this.

THE PRESIDENT: Oh, we haven't that yet.

DR. NELTE: I now put in the affidavit of the Generalaerzte and Generalstabsaerzte in Camp Muensterlager C. These affidavits cover the same material as has been covered by the other affidavits. I bring them to your attention, and thus Document 64 will become Exhibit 61. Through direct examination of the witness Generalarzt Hartleben, the Tribunal tried to clarify the questions involving the Medical Inspectorate. This question is of particular interest in the Handloser case. The Tribunal will recall that I pointed out when examining Generalarzt Hartleben that the court procedure that apply here are set down in Army Regulation 21, Part II, and when I offered to put the whole printed regulation in evidence I was refused by the Tribunal, but

Handloser was asked to point out the passages in these regulations that appeared particularly important to him and to have them put in evidence. Handloser has done so and now puts in an affidavit on court procedure in the various branches of the Wehrmacht. This is Document HA-65. This will be Exhibit 62, with the permission of the Tribunal.

In this affidavit those parts of Army Regulation 21 to which Handloser refers are reproduced, and I will give Army Medical Regulation number 2 to the Prosecution so that they will have a basis of comparison. I shall forego reading individual excerpts, but I ask the High Tribunal to look at page 5, Roman numeral II. These are the regulations concerning reports which are not made at specific intervals. This passage here is of particular importance for a matter that concerns this trial; namely, the reporting of special occurrences which have to be brought to the attention of the higher offices immediately and without delay.

Also I ask you to look at pages 9, 10, and 11. These are the regulations regarding the method of reporting medical research and papers on such research. That is Document No. 65, which will be Exhibit No. 62, with the permission of the Tribunal.

I now have an affidavit from the former Colonel Wolfgang Mueller, which he sent to me spontaneously; it is of particular importance, since he was a colonel whose rank was broken because of the events of 20 July. He was a department chief in the Army High Command and knew Professor Handloser there. When such a man offers to testify in behalf of Handloser, saying that he protected the interest of the Medical Corps with dignity against encroachments of the Party, that is important. I shall read only one sentence. He writes here, "I would not make this affidavit for Handloser if I had only the slightest suspicion that Dr. Handloser was one of the criminal Nazi physicians. On the contrary, historical research will show his merits in preventing the German medical profession from being permeated by Nazi ideas. Details of the above-described facts I put into my diary at that time. I shall shortly publish these facts in my book; Against the Lie about the Stab in the back". This Document HA 66 becomes Exhibit 63.

The Prosecution put in an affidavit by Oswald Pohl. This is Document NO-407, but I have not been able to ascertain the exhibit number. This affidavit is formulated in very general and consequently easily misunderstood terms. The Prosecution had Pohl state that doctors of the Luftwaffe, the Army, the Navy, and the SS seem to have only little difficulty in getting Himmler's approval for such experiments. And further he states: "I assume that Grawitz, Gebhardt, Karl Brandt, and others were Himmler's advisors in such matters." When Pohl was examined about this he said: "I know of no fact that would justify attributing experiments in concentration camps and demands for concentration camp inmates for experiments to Professor Handloser or his office. Professor Handloser was certainly not one of Himmler's advisors in such matters. This Document HA 67 I wish to put in as Exhibit No. 64.

The next document, HA 68, is an affidavit by Dr. Albrecht Ziaja, a former generalarzt, who sent me this affidavit on his own initiative. He makes the same positive statements about Handloser's personality as all the other Generalaerzte have made. Document HA 68 I should like to put in as Exhibit No. 65.

The next document, HA 69, has not yet been translated. It is a very brief document from Generalarzt Wuerfler. The Tribunal will recall that the Prosecution put in a list of research assignments, NO-934, Exhibit 458. Since Wuerfler had already been heard and had said that if such a document had reached the office of the Chief of the Medical Service of the Wehrmacht he would have seen it, and sent this document, Prosecution Exhibit No. 458, to him and asked him to tell me in the form of an affidavit whether he had ever seen this document. The affidavit reads:

"On 10 March 1947 the attorney Dr. Nelte sent me Document NO-934, 40 typewritten pages, and I have read through this document. I do not recall that this document ever came to the office of the Chief of the Medical Service of the Wehrmacht." Please accept this document, which will be translated within the next few days as Exhibit 66, without prejudice to Prosecution's right to object.

Now there comes a series of five letters, bearing numbers HA 76-a to e, which have not yet been translated. They were brought to my attention too late for me to have them translated in time.

THE PRESIDENT: They bear the number 67, not 76 according to you.

DR. NELTE: Yes. They are not yet translated - or are they?

THE PRESIDENT: I don't have them.

DR. NELTE: I believe there are two documents in question here, 76 and 67.

THE PRESIDENT: No Document 76 appears on this list - 72 is the highest number.

MR. HARDY: He is referring, your Honor, to Document 76 which

is Exhibit 67.

THE PRESIDENT: Yes, I see it.

DR. NEITE: Let me ask, Your Honors, whether I should make statements about this document now, without prejudice to Prosecution's right to object since he doesn't know these documents, or should I present it later?

THE PRESIDENT: Counsel may make his statement now.

MR. HARDY: It would appear to me, Your Honor, that these last few exhibits, that is 67, which is missing. Exhibit 70 I don't have, which will be Exhibit 68. Nos. 71, 72, 73, and 74 I do not have.

DR. NEITE: In the case against the defendant Handloser the Prosecution referred to the well-known typhus conference of the Reich Ministry of the Interior of 29 December 1941, in which Professor Handloser did not take part but a representative of the Army Medical Inspectorate did, Stabsarzt Schrott. This is Document NO-1315, Exhibit 454. And it is a file note of the Reich Ministry of the Interior. The Defendants Professor Mrugowsky has reports from Drs. Zahn and Demnitz on this same subject, Documents Mrugowsky 63 and 64, Exhibits 30 and 19, and an affidavit from Demnitz, Mrugowsky Document 62, Exhibit 18. These documents present a clear picture of what was discussed in this conference of 29 December 1941. This was a discussion with the pharmaceutical industry. Now in Document 1315, Exhibit 454, there is a discussion, as you may remember, of experiments planned on 29 December 1941, discussed between Professor Gildemeister and Mrugowsky, which had already been agreed upon. Let me point out that it was not agreed on at this conference because Mrugowsky was not even present. It had already been agreed upon before the discussion. Now the Prosecution states that this was the basis for the subsequent human experiments. The Prosecution further asserts the participants in the discussion knew of this and knew that Bucherwald experiments were to be made. Since there were also representatives of the Army Medical Inspectorate present, the Prosecution concludes that also the Army Medical Inspect-

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orate and Professor Handloser knew what was going on in Buchenwald at this time. Although this conclusion is refuted by a letter of 5 May 1942, Mrugowsky Document 10, Exhibit 20, and by his sworn testimony, the Defendant Professor Handloser wishes to dispose of any last vestige of suspicion in this manner by putting in these five documents. They bear numbers HA 76 a to e. I shall put them in as one document and ask that they be given Exhibit No. 67 a to e.

These letters of February and March 1942 will prove that the Army Medical Inspectorate, if it had known what was to go on in Buchenwald, and if it had been in agreement with this, namely, that human experiments were to be carried on in Buchenwald in order to expedite the production of typhus vaccine -- it would have been absolutely without any purpose for the Army Medical Inspectorate to have written the letters contained in this document. If it had known and approved what was going on in Buchenwald, then it would have waited for the results of this experimental plan. However, during this time it corresponded with the Behring Works and told the Behring Works, which had been given an order, that they should be sure to see to it that the vaccine to be delivered should contain only Rickettsia Prowazeki. The Behring Works did not answer these letters from the Medical Inspectorate saying, "Wait until the Buchenwald experiments are over." They answered on the 21st of March that the typhus vaccines were now being manufactured of Rickettsia Prowazeki alone, and thus the requirements of the Reich Ministry of the Interior and the Army Medical Inspectorate were being met. There are 5 documents here which I ask you please to examine most carefully. In my final brief I shall evaluate the contents and probative value of these documents.

MR. HARDY: May I see the original exhibit, Your Honor, those documents which were just mentioned?

DR. NELTE: These are copies from the files of the Behring Works, which have been certified by a notary.

MR. HARDY: The Prosecution would like some of the German copies too, Your Honor, in addition to the English translations, inasmuch as they purport to be original German documents. This apparently is the Court Exhibit.

DR. NELTE: The German originals are not in my possession but are in the possession of the Behring Works. This is a case quite analogous to the one my colleague, Dr. Fleming, was confronted with, who also put in letters from the Behring Works, which had been certified

by a notary on the basis of the originals there. As I remember, the Tribunal accepted this certification by a notary as sufficient and accepted the letter in question in evidence, but I ask for your ruling as soon as you see the original.

MR. HARDY: I am not objecting to this procedure, Your Honor, inasmuch as the Tribunal has established that it would be all right in the case of Dr. Flemming's documents. I merely would like German copies of these now so that I could peruse them this evening, or my analysts could do so, so that I could go over them immediately, without waiting for translations.

THE PRESIDENT: Will counsel for the defendant Handloser see that German copies are furnished to the Prosecution this afternoon, if possible?

DR. NELTE: Yes. Next I put in a certified copy of a ruling by the German Reichstag on 26 April 1942. Let me correct an error in the copy. In the copy here it says 26 September 1942 but it is really 26 April 1942. This was in the Reich Legal Gazette, Part I, No. 44, page 247. This is a very well-known resolution of the Reichstag, with the force of law, dealing with the concentration of the total power in Germany in the hands of Hitler. This document is put in evidence in connection with the question of what significance the so-called State Order has in the totalitarian State. I do not wish to read this resolution, but I shall refer to it in my summation. HA-70 becomes Exhibit 68.

MR. HARDY: For clarification of the record, I believe this Reichsgesetzblatt extract is dated the 26 of September, not April.

DR. NELTE: I have already made that correction.

THE PRESIDENT: Counsel just stated that the document was dated in September, not April. I understood the interpreter to say it was dated April, not September.

DR. NELTE: It is erroneously dated September and should be dated April.

MR. HARDY: Well, then, I would like to see the original exhibit, Your Honor. The translation has the 26th of September thereon.

DR. NELTE: I have already attempted to correct that. The original of this resolution probably cannot be found. This resolution is reprinted. It was published in the Reich Legal Gazette (Reichsgesetzblatt) which can be found in the library here. I assume that the Prosecution may take a look at it at any time. If not, I can produce it for the Prosecution.

MR. HARDY: Is Dr. Nelte certifying that Document HA-70, Exhibit 68, the date thereon should be the 26th of April and not the 26th of September?

DR. NELTE: That is right. I come now to my final documents which deal with Prosecution Document 1305, Exhibit 469. The Prosecution, in putting in this document, asserted that there was a general agreement between the Medical Inspectorate of the Army and the Hygiene Institute of the Waffen-SS -- an agreement to test the Behring Work vaccines on human beings in Buchenwald. This document is a letter from the Behring works in Marburg to Dr. Brugowsky, dealing with the testing of the Behring vaccine, and it says, and I quote: "Oberstarzt Dr. Schreiber has told us that the testing on human beings will be taken care of in the future through your office." In order to clarify this matter I have interviewed anyone who could know anything of value about this matter and whom I could get in touch with, in order to get affidavits from them. These are Professor Handloser, Generalarzt Dr. Schmidt-Bruecken, as Chief of Staff of the Army Medical Inspectorate and the superior of Oberstarzt Dr. Schreiber, Dr. Bernhard Schmidt, as Hygienist in the Department for Science and Health, also Dr. Demnit, director of the Behring Works in Marburg.

MR. HARDY: Is it my understanding from Dr. Nelte that Document NO 1305, Prosecution Exhibit 469, was introduced after Dr. Bernhard Schmidt had appeared before this Tribunal as a witness, or had it been introduced before that time?

DR. NEITE: It was put in later, or in cross-examination.

MR. HARDY: Then, your Honor, it seems to me that if this was put in before Dr. Bernhard Schmidt appeared before the Tribunal as a witness, defense counsel had ample opportunity to cross-examine Schmidt on that document, and this would be a second opportunity to examine him on it by putting in this affidavit. The witness was here and testified here, and the document at that time had been put into evidence, according to defense counsel. Therefore I do not see any reason for further affidavits from people who have been here as witnesses.

DR. NEITE: At the moment I cannot say at what point in the trial the Document 1305 was put in. At any rate I do know that I asked Dr. Bernhard Schmidt about this matter. I believe that I got a full perspective of this matter when I made the acquaintance of Dr. Mrugowsky's Document Book and Demnitz' letter. In a matter as important as this, Your Honor, the formal rules of evidence must be set aside and a real effort should be made to ascertain what the situation actually was. So I ask that the documents that I am not putting in in this matter, namely Documents HA-70, 71...no, I shall start again...HA 71, HA 72, HA 73, and HA 74, be accepted in evidence as Exhibits 69, 70, 71, and 72. I have just been informed that Document 1305 was put in evidence during the cross-examination of the defendant Mrugowsky.

MR. HARDY: I think my recollection serves me the same, your Honor. If the document was put in after the witness appeared here, then I have no objection to the affidavit.

DR. NELTE: This concludes my submission of supplemental documents for the defendant Professor Handloser, and thus my case for this defendant. I should like, however, to reserve the right, should it be necessary, to offer one more document which may be made necessary by the documents which the prosecution gave to us yesterday.

THE PRESIDENT: The Tribunal will hear counsel if he deems it necessary to offer in evidence any further documents.

JUDGE SEERING: Dr. Nelte, I have in my hand here a document apparently of the prosecution, NO-924, which presumably is an extract from Document NO-924. It is not quite clear to me what Handloser exhibit number you gave that extract.

MR. HARDY: It hasn't any number yet, Your Honor.

DR. NELTE: Yes, NO-924 is a prosecution document. Documents 921 to 924 are prosecution documents, excerpts from the printed conference reports.

MR. HARDY: Does defense counsel wish to have Documents NO-921, NO-922, NO-923, and NO-924 attached to the Handloser affidavit, which is Exhibit 60?

THE PRESIDENT: That was the purpose of my inquiry. I assume so.

DR. NELTE: Yes.

MR. HARDY: In that instance, could we number the extracts from Document NO-921 as Exhibit 60-A, the extracts from NO-922 as Exhibit 60-B, the extracts from NO-923 as Exhibit 60-C, and the extracts from 924 as Exhibit 60-D? Then I will be able to keep track of them.

THE PRESIDENT: They will be so numbered.

DR. NELTE: I have no objection to that. I thank you. I have concluded my defense.

THE PRESIDENT: Are there any further documents to be offered by the counsel?

DR. KRAUSS: Dr. Krauss for the defendant Professor Rostock.

Mr. President, at this time I should like to put in three affidavits in the case for the defendant Professor Rostock. I do not know whether

or not the Tribunal has the translations of them. If it is agreeable to the Tribunal, I should like to put the three documents in now, even if they do not have the translations, giving a brief summary of their contents.

THE PRESIDENT: Counsel may proceed. The Tribunal has no copies of the documents that I know of.

MR. HARDY: We have no copies. Are they affidavits on character reference or what are they? If I could look at the affidavits to see if they are properly executed, I may allow this, but I would rather have them in English before we have them introduced, Your Honor.

DR. KRAUSS: I ask the Tribunal to rule on this. Either decision is acceptable to me.

THE PRESIDENT: I was endeavoring to ascertain whether English copies are available. I have seen none.

MR. HARDY: I should like to look at the German copies and see whether they are in order.

THE PRESIDENT: Counsel will submit copies in German to counsel for the prosecution, who will examine them.

DR. KRAUSS: The German originals are here and can be examined.

MR. HARDY: Your Honor, they appear to be in order and have jurats thereon. I have no objections to their being put in now if copies are served on me with the numbers on each affidavit when they are served so that I will have a record of them.

THE PRESIDENT: Yes, and those for the Tribunal also, when we receive the copies, should bear the exhibit numbers which are assigned to them.

DR. KRAUSS: Mr. President, first I shall put in an affidavit by the witness Margarete Baldow. This I put in as Rostock Exhibit No. 11. The witness Baldow was chief nurse at Professor Rostock's clinic. She had a precise knowledge of Professor Rostock's activities and personality. She states in the affidavit that Professor Rostock, even after taking over the Office of Science and Research, still remained the responsible chief

of the university clinic, and that from a purely temporal point of view he spent most of his time and energies in the clinic and with his patients. Because of her intimate knowledge of Professor Rostock's character, both as a human being and a doctor, the witness states that she knew of no participation of Rostock in illegal experiments and considers it quite out of the question that he even knew of any illegal experiments.

The second document that I wish to offer to the Tribunal is an affidavit by Professor Menzel. I offer it as Rostock Exhibit 12. Professor Menzel was business manager of the Reich Research Council. He has a precise knowledge of the organization of the Reich Research Council. He says in his affidavit that Rostock himself was not a member of the Reich Research Council, that he was merely the deputy of Professor Karl Brandt from 1944 on, and that Professor Rostock himself never participated in a meeting of the presidial council or of the chiefs of specialized departments (Fachspartenleiter) in the Reich Research Council. The affiant particularly states in the affidavit that Professor Rostock had nothing to do with the issuing of research assignments by the Reich Research Council. He also states that it was not Rostock's job to help determine the priority rating of the individual research assignments. The affiant also states that Rostock, as leader of the Science and Research Office, had no right to give orders to the Reich Research Council.

Third, I put in an affidavit by Margaret Georgi. I put this affidavit in as Rostock Exhibit 13. This witness is a doctor. In 1936 she received a long prison sentence for insulting the Fuehrer, and today she is recognized as a victim of Fascism. This witness says that in view of her political punishment she could not find work in the Third Reich, that she had difficulties wherever she turned, and that Professor Rostock, in full knowledge of the fact she had been sentenced, employed her as assistant doctor in his clinic. She further states that during her activities as assistant doctor, in view of her political past, she

was put at no disadvantage by Professor Rostock, but that she was promoted the way every other associate was promoted by Professor Rostock.

Mr. President, these three documents conclude my defense of Professor Rostock.

THE PRESIDENT: The three documents will be admitted in evidence as exhibits on behalf of defendant Rostock, under the numbers assigned to the exhibits by counsel. Copies are to be furnished the Tribunal as soon as possible.

Do any other defense counsel have any documents to offer?

DR. SEIDL: Seidl for Gebhardt, Oberheuser, and Fischer.

Mr. President, after the recess I shall be ready to put in supplemental documents for these three defendants. These documents are in Document Book 2. Moreover, there are prepared four loose documents which also contain affidavits. I should be obliged if the Secretary General will give the Tribunal the translations of these documents which are already prepared, and then I shall offer the documents.

THE PRESIDENT: The Secretary will furnish the Tribunal translations of these documents, to be taken up at the close of the pending recess.

The Tribunal will now be in recess.

(Thereupon a recess was taken.)

THE MARSHAL: Persons in the courtroom will please find their seats.
The Tribunal is again in session.

DR. SEIDL: Counsel for the defendants Gebhardt, Oberheuser, and Fischer.

Mr. President, in accordance with the suggestion made by the Tribunal, I have drafted an index where you will find all of the documents which have been submitted so far. Also you will find there all of those documents which I intend to submit to the Tribunal today. In view of the short time at my disposal, I was not able to get a translation in time.

I do believe, however, that this index even in the German language will help to facilitate the proceedings.

On the first page of this index you will find a list of those documents which have been submitted in Document Book I and which have already been admitted by the Tribunal. This part of the index is finished and I ask you now to turn to page no. 2 where you will find those documents which are contained in the document book now before the Tribunal, which is Document Book No. 2. For reasons of expediency I have also inserted, in Column 1, the exhibit number provisionally for the convenience of the Tribunal.

In the second column you will find the documents in the order as they are contained in the document book, and then you find the page number and the description of the individual document.

The last document which I submitted to the Tribunal in April was Gebhardt Exhibit 16. The first document I am now submitting to you is Document No. 18 in Document Book No. 2. This will become Gebhardt Exhibit No. 17, as it is listed in the index. This is an order of the Reichsfuehrer SS Himmler, dated 17 May 1940. The defendant Karl Gebhardt in his direct examination defined his attitude toward that order. This order is being submitted in order to illustrate the tasks of the defendant Karl Gebhardt in his capacity as Consulting Surgeon to the Waffen SS. This document is offered as Exhibit Gebhardt No. 17.

The next document in the document book is an order of the High Command of the Wehrmacht, signed by the Chief of the Wehrmacht Medical Service, the defendant Dr. Handloser.

MR. HARDY: May I inquire of defense counsel just what is the source of these documents? The second document I believe I have seen the original myself upon the interrogation of Gebhardt many, many months ago. I won't object to that. But the other copies, these are certified copies by Dr. Seidl of original German documents. May he inform me just where those documents are kept in custody?

DR. SEIDL: Mr. President, the original documents were returned to the defendant Karl Gebhardt after his arrest. He turned them over to me, and they are now in my possession. According to the usage of the Tribunal, that only copies or photostats are submitted, I thought it sufficient to submit only a copy. If however, it is desired, I can submit the original to the Tribunal.

THE PRESIDENT: The originals should be submitted. A photostat, being a facsimile of the original, will serve a purpose, but a mere typewritten copy would not.

DR. SEIDL: In that case I shall submit the originals of these two documents to the Secretary General of the Tribunal. They are still in my possession. The document which I just mentioned is Document Number 19, is the second document in Document Book Number 2. This is the order of the OKW, dated 1 November 1944. The defendant has already defined his attitude toward that order in the witness box. This order shows the tasks which had to be fulfilled by the defendant Gebhardt in the last months of the war. I offer this document as Gebhardt Exhibit Number 18.

The next document to which I turn now is an affidavit signed by General of the Waffen-SS Karl Wolff. Karl Wolff, throughout a long period of time, was Chief of the Personal Staff of the Reichsfuehrer-SS and therefore has a sound knowledge of the situation within the SS in general and also within the medical service of the SS. He further knows about the relationships between the defendant Karl Gebhardt and Reichsfuehrer-SS Himmler. I submit this affidavit as Gebhardt Exhibit Number 19. Karl Wolff, among other matters, shows his attitude toward the concept of the "escort physician". He then states what Gebhardt had to do in his capacity as Consulting Surgeon to the Waffen-SS. He further makes statements about the position of Dr. Stumpfegger the later accompanying physician of Himmler and Hitler. This seems to me to be necessary because Dr. Stumpfegger has repeatedly been mentioned in this case in connection with the experiments and in particular the

bone experiments.

I now turn to the affidavit of Dr. Karl Friedrich Brunner, which can be found on page 21 of the document book. This affidavit I offer as Gebhardt Exhibit Number 20. This witness worked in the Defendant Karl Gebhardt's clinic at Hohenlychen for a considerable time. I ask the Tribunal to take notice of the contents of this document. I should merely like to quote a few sentences of the second paragraph on page 13 of that affidavit:

"Regarding Dr. Stumpfegger's personality, I can state that already in peacetime he was an assistant at the clinic before me. At the beginning of the war in 1939 he joined the Waffen-SS and was then, as far as I know, from 1942 onwards escort physician of Himmler. I did not see Dr. Stumpfegger on my return to Hohenlychen in the autumn of 1943, nor had he any official connection with the clinic up to the end of the war, either in a medical or in a military sense."

I then turn to the affidavit of Dr. med. habil. Josef Koestler. This affidavit can be found on page 15 of the document book, and it is submitted as Gebhardt Exhibit Number 21. Dr. Koestler was also an assistant physician at Hohenlychen. I shall quote only two paragraphs from this affidavit. They are to be found on page 15 of the document book.

"Then Professor Dr. Karl Gebhardt and I, at the third Conference of Consulting Specialists of the German Wehrmacht in May 1943, gave a lecture on surgical aid for peripheral nerve damage, we were, on the one hand, interpreting the results of animal experiments carried out on experimental dogs from 1938 to 1940 in the Langenbeck-Virchow Hospital Berlin, and in the institutes of Professor Holz and Professor Osterlag, and, on the other hand, announcing surgical methods as they had been frequently used during the previous years.

"Under the title of 'Preparatory and Restorative Surgery in cases of Peripheral Nerve Damage', I recorded these experiences in the 'German Journal for Surgery,' Volume 259, Numbers 1 to 4, 1943, and in my

habilitation paper (1943, University of Berlin).

"I emphasize expressly that this series of experiments was carried out exclusively on animals."

I ask you to accept this affidavit as Gebhardt Exhibit Number 21.

I now go over to page 17 of the document book where you will find an affidavit signed by another assistant physician of the defendant Gebhardt. This is the affidavit of Dr. Hans-Georg Jaedicke. His statements are relevant in connection with the so-called biochemical experiments. I ask you to accept this affidavit as Gebhardt Exhibit Number 22, and I shall merely quote paragraph 5 from page 21 of the document book:

"5) Biochemical Work at Hohenlychen. In the course of 1943 a medical conference took place at Hohenlychen among Professor Gebhardt, Health Senator Laue, the biochemical physician Dr. med. Kieseletter, and Professor Schlenz, in which I participated. Laue and Schlenz represented the standpoint that the recognized surgical methods for the treatment of chronically purulent wounds should be supplanted by biochemical means and bath treatments. Laue was of the opinion that, according to the basic principle of biochemistry, all diseases originate in a deficiency of certain minerals which normally exist in small quantities in the body and that the induction of these basic minerals highly diluted (in the case in question; calcium carbonicum 1:1,000,000, calcium fluoratum 1:1,000,000; silica 1:1,000,000) would cure these diseases. Although Professor Gebhardt and I could not confirm these findings, Professor Gebhardt charged me with the clinical scientific checking of this bio-chemical therapy and the bath treatment of clinic patients in the framework of our work on stimulation therapy, of course retaining the usual life-preserving therapy. Tests on clinic patients suffering from chronic diseases and late complications were clearly justified, as these methods were not applied at the beginning of a disease (accidental wounds, fresh injuries)

but constituted additional treatments applied at the end of the cure. As similar treatments of chronic patients, especially juveniles, had long been applied -- especially when all other medicinal therapy had failed - and had partly been found successful, and as they were entirely harmless, we had the scientific guarantee that we would not subject the patient to any risks by applying this treatment.

"As far as I can recall, I treated about fifty patients in my surgical ward additionally with bio-chemical and balneological measures. As could be foreseen, the success of these one-sided measures was only moderate and was restricted to the well-known good general effect of contrast therapy with warm baths. I reported this to Professor Gebhardt, submitting a scientific resume and a scientific paper intended for the professional press. Only a year later did I learn of Gebhardt's and Fischer's sulfonamide experiments, which were completed in 1942. In 1943 when I was transferred from the Luftwaffe in Norway to the military reserve hospital Hohenlychen, I learned about them from an official report (in a green pamphlet issued in 1943) dealing with a congress of Consulting Medical Officers of the German Wehrmacht. A short time before me, in 1936 or 1937, Dr. Stumpfegger joined the clinic as an assistant physician; at the beginning of the war, however, he became a military doctor, and since that time he never worked at Hohenlychen. I learned that from about 1942 on he was Himmler's escort physician and that he later held the same position with Hitler."

The next document can be found on page 24 of the document book. It is an excerpt from the report on the Third Conference East of Consultant Specialists from the 24th to the 26th of May 1943. This is submitted as Gebhardt Exhibit Number 23. I should like to state that we are concerned here with an excerpt from this green pamphlet, from which the Prosecution as well as by the defense have already

submitted excerpts to the Tribunal.

I submit this document because the lectures by Gebhardt and other doctors of his clinic were held during the same meeting as the lectures reporting on the sulfonamide experiments. That was in May 1943. On another occasion, when submitted Document Book Number 1, I submitted an excerpt from this report. This was Gebhardt Exhibit Number 10. I ask the Tribunal to take notice of the contents of this excerpt. A lecture by the Defendant Professor Gebhardt in collaboration with Standartenführer Schulze, who was chief physician at Hohenlychen, regarding physiotherapy and the mobilization of joints, is described under figure 2.

On page 28 of the document book you find the name Koestler mentioned at the bottom of the page. Here there is no question at all of any experiments on human beings, but of experience gained as a result of the clinical work. On page 29 under paragraph 15 you find a lecture given by Dr. Brunner. This concerns limitations of the therapeutic value of x-ray contrast pictures of injuries of peripheral nerves. I refer to the affidavit of Dr. Brunner in this connection which has already been submitted as Gebhardt Exhibit 20, a few minutes ago.

On page 30 of the document book you find reference to a lecture under paragraph 16 by SS-Gruppenfuhrer, Generalleutnant Prof. Gebhardt regarding paralysis of the nerves. This was done in collaboration with Koestler. This lecture was given as a result of experiments on animals which Koestler carried out under the leadership of Gebhardt. Koestler speaks about experiments in his affidavit which was already submitted by me to the Tribunal today as Gebhardt Exhibit 21.

THE PRESIDENT: What page of your Document Book was the last one you referred to, counsel?

DR. SEIDL: Page 30 of the German and 30 of the English Document book, your Honor.

MR. HARDY: Your Honor, exhibit 23 which is document 24 does that purport to be an extract of Prosecution's exhibit?

DR. SEIDL: We are here concerned with the same document which was mentioned about an hour ago by Dr. Nolte. This is the green pamphlet about the report of the consulting physicians.

I shall not turn to page 31 of the Document Book. Here you find the statement made by Dr. Med. von Erlach dated 23 February 1947. Dr. Erlach was the head of a mixed commission of physicians which visited the clinic of Hohenlychen. He visited this institute in his capacity as chief physician, coming from Switzerland from the International Red Cross. I submit this statement as Exhibit Gebhardt 24.

I don't think that it is necessary to quote anything from this statement and I ask the Tribunal to take notice of that.

I then turn to the affidavit of Wilhelmine Henne which can be found on page 34 of the document book. I should like to make the following remarks in that connection. The 9 documents which I am going to submit now all concern more or less the same subject. These are statements made by former nurses, former male nurses, and former patients of the Clinic Hohenlychen. I picked out from a large number of letters which were addressed to me a number of statements and converted them into the form of an affidavit. I don't thin that it is necessary to read anything into the record and I shall merely submit them to the Tribunal as exhibits. The affidavit made by Wilhelmine Henne on page 34 of the document book which bears the number 24, will become Gebhardt Exhibit 25.

The next document is an affidavit signed by a certain Mademoiselle Antoinette Delachaux and it can be found on page 37 of the Document book. This is document 27 and I submit it as Gebhardt Exhibit 26.

The following document is an affidavit signed by a certain Herr von Schlebruegge. This you find in Document Book II on page 39. It bears the number 28 and it is submitted as Gebhardt Exhibit #27.

Then follows the affidavit signed by a certain Carl Friedrich Hossdorf. This you find on page 42 of the Document Book bearing the number 29 and will become exhibit 28. Then follows the affidavit signed by Paula Kallmuenzer who was a physiotherapist at Hohenlychen. This can be found on page 45 of the document book bearing #30 and will become Gebhardt exhibit 29.

There follows on page 47 of the document book an affidavit signed by Dr. Gustav Adolf Schmieding which bears document number 31 and is offered as Gebhardt Exhibit #30.

MR. HARDY: For the convenience of the Tribunal at the completion of the introduction of evidence on the part of Dr. Seidl for the

defendant Gebhardt, Dr. Merklo will have his document book ready for the defendant Genzken and he has submitted his Genzken document book and the Secretary General may procure those for the Tribunal and I will attempt to procure ones for the Prosecution and we will be ready at that time.

THE PRESIDENT: The secretary will procure the documents.

DR. SEIDL: The last document to which I referred was the affidavit of Dr. Gustav Adolf Schmieding on Page 47 of the document book. This bears no. 31 and is offered as Gebhardt Exhibit #30. The next document is an affidavit signed by Mrs. Marie Agnes Kasten. This will find on page 49 of the Document Book bearing the document number 32, and is being offered as Gebhardt exhibit #31. On page 51 of the document book you will find the affidavit signed by the physiotherapist Gisela Fritze. This document bears no. 33 and is offered to the Tribunal as Exhibit 32.

I now turn to the affidavit signed by Kaethe Sommer a licensed physiotherapist which you will find on page 53, bearing #34. This affidavit is submitted as Gebhardt Exhibit 33.

These documents conclude the series of affidavits with which I intended to give a picture to the Tribunal about the spirit in which Professor Gebhardt tried lead his clinic. As already mentioned these affidavits have been selected from a large number of letters from his former collaborators and patients. Now I shall turn to page 55 of the document book. Here you will find an affidavit signed by Fr. Dr. Maria Weber, a nerve specialist in the nerve clinic of the Munich University. This bears #35 and is submitted as Gebhardt Exhibit 34. This document distinguishes itself from previous documents by the fact that it deals with one particular question which has played a part during these proceedings, namely treatment of psychopathic and people who are feeble minded. This serves a good purpose in substantiating of the testimony which Dr. Gebhardt made on the witness stand. It describes how the

defendant Gebhardt tried to cure psychopathic children, feeble minded children, and make them again worthy members of society. As I mentioned before I am offering this document as Gebhardt Exhibit 34.

There now follow a number of Documents, Mr. President, which are intended to show what Dr. Karl Gebhardt's political attitude was and to show that he was tolerant from a political point of view and that he tried to help the people who had gotten into difficulties because of political or racial reasons. Here I am also only supplementing from a number of letters which I have received and which I am submitting to the Tribunal in the form of affidavits.

The first document of that kind can be found on page 58 of the document book. This is an affidavit signed by Mrs. Dorrit von Vieroek. It bears the document No. 36 and is offered as Exhibit 35 - I repeat, Gebhardt Exhibit No. 35. In the case of this document, as well as in the case of all other documents, I forego quoting any passages into the record and merely confine myself to asking the Tribunal to take notice of the documents.

On page 60 of the Document Book you will find an affidavit signed by a Mrs Daisy von Arnim, bearing the document No. 37, which is being offered as Gebhardt Exhibit No. 36.

The next document to which I am turning now is the affidavit signed by Med. Dr. Gertrud Obermeier, on page 65 of the document book. This document bears the number 39 and I am submitting it to the Tribunal as Gebhardt Exhibit No. 38.

THE PRESIDENT: Are you intentionally passing one document, counsel? Did you pass your document No. 38 intentionally?

DR. SEIDL: I beg your pardon, Mr. President. I overlooked that document. Document No. 38 is the affidavit signed by Konrad Scherz on the 25th of March 1947.

THE PRESIDENT: That is Document No. 38, counsel, is it not? You said Document 39. It seems to be No. 38.

DR. SEIDL: Yes, it will be No. 38.

THE PRESIDENT: Exhibit No. 37.

DR. SEIDL: Document 38 will become Gebhardt Exhibit No. 37. This is an affidavit signed by Konrad Scherz. The affidavit signed by Gertrud Obermeier, bearing the number 39, will become Gebhardt Exhibit No. 38. You will find these documents in the sequence as recorded in the index which was submitted to the Tribunal. It was my mistake in overlooking that affidavit of Konrad Scherz.

On page 67 you will find an affidavit by Medical Doctor de Valdez Lange, bearing the No. 40, which is submitted as Gebhardt Exhibit No. 39.

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Mr. President, the next document in the document book was already submitted by me at an earlier occasion. This is an affidavit signed by Frau Margaretha Mydla and was submitted as Exhibit Oberhauser No. I. This document refers only to defendant Herta Oberhauser and her activity in the concentration camp of Ravensbrueck. I merely included it once more in my document book because it was then only submitted individually and not within the framework of a document book. In order to avoid any loss or oversight, I deemed it expedient to also include it in my document book at this time.

The last document in my document book --

THE PRESIDENT: Counsel will you again give me the number of your Document No. 41?

DR. SEIDL: Document No. 41 bears the Exhibit Oberhauser No. 1. It was already submitted to the Tribunal into evidence and admitted as such.

The last document in the document book constitutes an ordinance by the Government General for the Occupied Polish Territories. It is a decree against acts of violations in the Government General of the 3rd of October 1939. The Court suggested that this document be offered in connection with some of the documents of Volume I. I was not in a position to submit this document at an earlier date because at that time I was not in possession of the Gazette of the Government General dated 1939. This document is on page 72 of the document book, bears the number 42 and is submitted by me as Gebhardt Exhibit No. 40. I have referred to this document in my final plea and have explained in detail what legal conclusions can be derived from the document. I cannot submit the document in the original because it is now in possession of the General Secretary's Office. For that reason I have made an excerpt from the Gazette of the Government General and had it certified. If it is desired I shall also be in a position to submit a photostat copy.

MR. HARDY: I understand defense counsel certifies that this is a true copy of the Act as set forth in the Government General's rules, or orders -- is that correct?

JUDGE SEBRING: Dr. Seidl, we have been observing this document No. 42, that is certified by you. I understand this is a literal transcript, certified by you from the original?

DR. SEIDL: Yes. This ordinance was published in the same way as all other decrees and laws, that is, in a book. This book can be found in the library of the General Secretary. I have merely certified the authenticity of the copy as it was taken from that book. This decree of the Government General will become Gebhardt Exhibit No. 40.

This brings me to the conclusion of the submission of documents which are contained in Volume II. Gentlemen of the Tribunal, there are 4 more documents which I would like to submit, which are not contained in any document book, but which I can submit singly. These are 4 affidavits. The first affidavit is an affidavit signed by Countess von Kuennburg. It bears No. 45 and will be submitted to the Tribunal as Gebhardt Exhibit No. 41.

MR. HARDY: Your Honor, I would like to inform Dr. Seidl that I have translations of these last 4 in my possession.

DR. SEIDL: The same question is treated in this affidavit which was already dealt with by the witness Dr. Maria Weber, namely, treatment of feeble-minded and psychopathic children by the defendant Dr. Karl Gebhardt.

The next document --

THE PRESIDENT: Counsel, just a moment. These were handed up to us not in order. We would like to arrange them in order before you proceed.

DR. SEIDL: May I ask whether the Tribunal has this affidavit of Countess von Kuennburg before it?

THE PRESIDENT: Yes.

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DR. SEIDL: In that case I should like to submit it as Gebhardt Exhibit No. 41. The next document listed in the index is an affidavit signed by Mrs. Soranger. This is the wife of the well-known Dr. Soranger and is intended to show in what trends Professor Gebhardt's political thinking was moving. This will be Gebhardt Exhibit No. 42.

The next is an affidavit signed by a certain Wachsmuth and deals with the same question. This bears No. 46 and is submitted as Gebhardt Exhibit No. 43.

I now turn to the last document, Mr. President. It is an affidavit signed by the defendant Dr. Karl Gebhardt himself. I believe that it is necessary for me to state the reason which moved me to submit such an affidavit in addition to the testimony of the defendant Dr. Gebhardt, under oath, in the witness stand.

THE PRESIDENT: Counsel, I have no copy of that document in English. I wonder if one is available - an English translation of this document? We have only one copy of that document translated.

DR. SEIDL: I brought a number of translations along with me, Mr. President. I should merely like to explain, Mr. President, that my only reason for submitting this affidavit is to prevent any misunderstandings in interpretation during Professor Gebhardt's testimony. We have observed that the translation of Dr. Gebhardt's testimony has proved to be very difficult and for that reason I thought it to be expedient to submit to the Tribunal a concentrated summary of Professor Gebhardt's testimony on the witness stand. Nothing new is contained in that affidavit and its purpose merely is to facilitate the work of the Tribunal and to adjust and clear up any mistakes in the translations which have not been cleared up to date. I just want to add that this really constitutes no basic question for me and should the Prosecution be of the opinion that this procedure is not proper, I for my own part, will not insist on the submission of this affidavit. I don't know whether the representative of the Prosecution has already read the affidavit. In case he has not as yet read it,

perhaps the decision regarding its admissibility can be postponed until such time as Mr. Hardy is in a position to state whether or not he intends to object to this affidavit.

MR. HARDY: Your Honor, I have sufficiently looked over the affidavit to determine enough to satisfy myself that I do not think it is admissible as an exhibit. It is a summary of evidence written by the defendant himself. However, I feel that it might be suggested that the defense counsel for Gebhardt may well file this with his brief to the Tribunal as a summary of evidence written by the defendant instead of by the defense attorney. It is not a document as such, as we would consider here as admissible in evidence. It is merely a summary of the transcript of the evidence and the testimony of Gebhardt when he was on the witness stand. I think it is perhaps a good brief and one that the Tribunal may find useful, but I do not think it is admissible as an exhibit. In substance, Your Honor, I think the defendant could well incorporate this into his brief.

THE PRESIDENT: It seems that the defendant would have a right to file an affidavit; it would, of course, be subject to an examination, inspection by the prosecution, or calling the defendant again for cross examination if he desires, but ---

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MR. HARDY: But this affidavit, your Honor, is just a rehashing of the testimony of the defendant which he has been examined on. In other words, the defendant own summary of the evidence in this own judgement of how he testified. That is for the Tribunal to decide when reading the testimony.

THE PRESIDENT: If the affidavit is a conclusion rather than a statement of facts it is not a proper subject for examination but a proper subject for argument as a supplement counsel's brief. The Tribunal has had no opportunity to examine the affidavit or whatever the document is called.

DR. SEIDL: I may perhaps add the following. This affidavit contains facts as well as conclusions in the same way. It contains conclusions in the same way as many of the witnesses whom we have heard here have stated conclusions. It is merely a summary of very extensive testimony and is merely intended to facilitate the work of the Tribunal.

THE PRESIDENT: The Tribunal will receive the document in evidence, and disregard the conclusions. The counsel for prosecution may call the defendant for cross-examination in connection with the document if he desires. What number do you assign the document?

DR. SEIDL: This document will receive Exhibit 44. Mr. President the document number has not been assigned on the document. It is document number 43.

THE PRESIDENT: I had already added the number which counsel gave us before.

Does this conclude counsel's offer documents?

DR. SEIDL: Mr. President, this concludes the submission of evidence on behalf of defendant Karl Gebhardt. I may again repeat that these documents are of course also evidence on behalf of defendant Oberhauser and Fischer, and only for reasons of simplicity the designation was Gebhardt alone.

THE PRESIDENT: The Tribunal understands that they are on behalf of all three defendants.

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These documents counsel, are well arranged and in consecutive order and the Tribunal would compliment counsel on the presentation and arrangement of the documents. I am not referring to the contents of the documents because I have not read them, but the arrangement and order of presentation was excellent.

DR. SEIDL: Thank you, Mr. President.

THE PRESIDENT: We received the book offered on behalf of the defendant Dr. Karl Genzken. Is counsel ready to proceed with those?

MR. HARDY: At the conclusion of Dr. Genzken production of evidence I think the defendant Ruff's document book will be ready, so if the Secretary General can have those documents books ready, it will be helpful.

DR. MERKEL: Merkel for defendant Genzken.

Mr. President, Gentlemen of the Tribunal, in supplementation of the submission of evidence I should like to offer seven documents. The first document, Genzken Document 18 to be found on page 40 of the document book. This is offered as Genzken Exhibit 17. This is an affidavit signed by the witness Ruff. After the customary introduction the witness states, and I quote:

"I was Chief of the Fuehrungsabteilung (administrative department) in the SS Fuehrungshauptamt (SS Administrative Main Office) since August 1943, and from 1 May 1942 to the end of the War I was 1a of the SS Fuehrungshauptamt and I am acquainted therefore with the organizational structure and branches of the SS Fuehrungshauptamt, and consequently also with the medical service of the Waffen SS.

"While Groups of consultant physicians had been attached to the medical chiefs of the three sections of the Wehrmacht, groups which acted in an advisory capacity in the separate special fields of medicine, this institution did not exist with the Chief of the Medical Service of the Waffen SS within the SS Fuehrungshauptamt.

"I know that there was a large number of leaders within the Waffen SS who were not subordinate to the SS Fuehrungshauptamt, but served in other SS branches, and were subordinate therefore to the chiefs of these

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branches."

This affidavit should prove there were no so-called groups of consultant physicians at the Waffen SS. This supports the testimony of the Defendant Gebhardt who designated himself as consulting surgeon of Himmler and therefore was not subordinated to the SS Führungshauptamt or the chief of the Medical Service of the Waffen SS.

All the other documents are copies of the Pohl trial which is Case No. 4 in Courtroom No. 2 All of these are certified by Major Schaefer.

The first of these series of documents is Genzken 19-A, and can be found on page 41 of the document book. It is going to be exhibit 18. This is the interrogation of witness Dr. Kogan by the prosecution in Tribunal IV. I quote on P. 41 the last question:

"Q And in 1943 Block 50 was abandoned and was used for the production of typhus vaccine?

"A We entered the block on the 15th of August 1943. It had been arranged for the purposes of production of typhus vaccine, and the production had been changed."

This shows that Block 50, the vaccine production station was only used as from the 15th of August 1943. If the Tribunal will remember as of the 1st of September 1943 the institute for the production of vaccine was no longer under the jurisdiction of Genzken, but under the jurisdiction of the Reichsarzt SS Grawitz. The block was only occupied on 15th August 1943. The actual production of vaccine must have started much later, certainly after the 1st of September 1943.

The next document will be Genzken 19-B, and will become Genzken Exhibit No. 19. This you will find on page 43 of the Document Book. Here we have the cross-examination of the same witness, Dr. Kogan by defense counsel Dr. Seidl. As it is well-known Balachowsky had submitted an affidavit to the prosecution, document No. 484 which was Exhibit No. 291. On page 65 of the document 12 of the prosecution, there Balachowsky speaks about a Main Committee on typhus research and alleges Genzken was

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a member of that committee.

Other documents have already established that no such main committee existed. It has been proved that Dr. Balachowsky had not sufficient knowledge about the situation in Block 50 and Block 46, and it is for that reason I am going to submit that document, No. 19. I merely read the last question on page 43.

"Q On the basis of your statement, I must assume that Dr. Buchalowsky also was well informed about the conditions in Block 46 and Block 50?

"A Not so well not even approximately so well as I was."

The next document will be Genzken Document 19-C, which will be Exhibit Genzken 20. This you find on page 44 of the Document Book and it is also an excerpt from the cross-examination of witness Kogan by defense counsel Seidl:

"Q I shall now come back to these medical experiments at Buchenwald that were carried out there. You testified that Dr. Ding from 1943 was chief of the Division for Typhus and virus Research at Buchenwald, is that correct?

"A Yes. The time within '43 must be stated more accurately. I tell you the Department for Typhus and Virus Research was later on decided upon by the Hygienic Institute at Berlin, rather than at the time when Ding-Schuler took over these functions practically."

"Q When was the Department for Typhus and Virus Research created?

"A The Department which received that title later on, according to my recollection, was created in November 1941, within the framework of the Department for Special Tasks of Dr. Ding-Schuler, and that was only for a clinical station there. The plan for the foundation on the station for the production of inoculants for typhus started in Autumn of 1942. The execution itself ran from the end of January 1943 to the 15th of August 1943. The common title, Department for Typhus and Virus Research, at

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Buchenwald, was, according to my recollection, finally decided upon at the end of 1943, at the Hygienic Institute of the Waffen SS, Berlin."

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Since the common title was only finally decided upon at the end of 1943, one finds that only at that period of time was the production of vaccine started.

The next document will be Genzken 19-D, Exhibit 21, which one finds on page 45 of the document book. This is the direct interrogation of the Witness Ackermann by the prosecution:

"Q. Was Dr. Mueller, whom you mentioned, subordinated to Dr. Lolling?"

A. Dr. Mueller, like every other doctor in the concentration camps, was subordinated to Dr. Lolling."

This establishes that every Doctor in the concentration camps, including Dr. Ding, was subordinated to Dr. Lolling, the head of the concentration camps. Dr. Lolling and his department were part of the W.V.H.A., Sub-department D-3. Dr. Lolling and his department, D-3-, were not part of the SS-Fuehrungsamt.

In addition I submit Genzken document No. 19-E, which will become Genzken Exhibit No. 22 and can be found on page 46 of the document book. This is the continuation of the interrogation of the Witness Ackermann by the Prosecution, I quote:

"Q: Do you know if this camp was subordinated to the W.V.H.A. in Berlin: the economic and administrative head office in Berlin?"

A. After all letters, at least those from the medical section, had been read and after we sent them to D-3 and Lolling had repeatedly come there for inspection, we had to assume that the W.V.H.A., with whom we were in direct contact regarding economic matters, actually was the superior organization of this SS institute."

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THE PRESIDENT: Counsel, will you please read again Document No. 19-E slowly and I shall ask the interpreter to interpret it without the benefit of the manuscript.

DR. MERKEL: "Question: Do you know whether this camp was subordinated to the W.V.H.A. in Berlin, the economic and administrative head office in Berlin.

"Answer: Since all letters, at least from the medical department, had been sent to D-9, to Lolling's office and Lolling had come there repeatedly for purposes of inspection, we had to assume that the W.V.H.A., with whom we were in direct contact regarding economic matters, actually was the superior agency of this SS institution."

THE PRESIDENT: Thank you.

DR. MERKEL: Finally, in order to prove the same matter, I am submitting the document 19-F, Exhibit 23, on page of the document book. This is also an excerpt from the examination of the witness Ackermann and I quote:

"Q. Do you remember with what Amtsgruppe of the W.V.H.A. you were in contact?

"A. Mainly as a medical department we were always in contact with the department D-3, the referat of which was Dr. Lolling, which was the competent organization. We also wrote to other departments and I cannot remember what departments they were exactly."

This concludes my submission of evidence on behalf of the defendant, Dr. Genzken.

THE PRESIDENT: Doctor, these documents which you are about to offer, do they run from No. 22 through No. 32; does that comprise all of them?

DR. SAUTER: No, I am afraid that is not correct. The documents which I now intend to submit, run from No. 17

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to No. 23. This is the supplemental volume 3, it begins with an affidavit of Dr. Professor Werner Knothe, repeat supplement 3 to document book Blome, starting with document 17.

JUDGE SEBRING: Well, counsel, members of the Tribunal have supplemental 3 in their rooms. If you would start this afternoon on supplement 4, then we will take up supplement 3 in the morning.

DR. SAUTER: Mr. President, supplemental volume 4 was already submitted by me when dealing with my evidence. If you remember, these were excerpts from the Philippine Journal, which were already submitted. Mr. President, the supplement No. 3 is available here in the English translation and you can have it.

THE PRESIDENT: Let us have some of them, sir. Counsel, are you offering documents on behalf of the defendant Ruff or Blome?

DR. SAUTER: For the defendant Blome.

THE PRESIDENT: We had not received those documents until this moment, I was misled by supposing that you referred to other documents.

Proceed.

MR. HARDY: If Dr. Sauter would permit and is not in a position to put in the books on Ruff maybe at this time we could put in the documents on Rudolf Brandt. "He is all ready to go and we could delay on Blome until the morning.

DR. SAUTER: I am also in a position to submit Dr. Ruff's documents immediately, would you prefer that?

JUDGE SEBRING: Well, Dr. Sauter, when I directed my inquiry to you, it was with regard to the Ruff documents. We have here before us Ruff Documents Nos. 22 to 32, inclusive

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At the time I directed my inquiry, we did not have the Blome document book. Are Nos. 22 to 32 Documents Ruff all of the supplemental documents to be put in on his behalf?

DR. SAUTER: Yes. If you desire, I can immediately start with the case of Ruff.

THE PRESIDENT: Is there any objection, Mr. Hardy, to starting with the Blome documents?

MR. HARDY: If he has any more than the one supplement I just have one, I don't have all the Blome documents and this is rather confusing to me. I cannot scan my files and know what is to be used. Is he going to put in more than the one supplement document book on behalf of Dr. Blome?

DR. SAUTER: No, only the supplemental Volume No. 3, volumes 1, 2 and 4 were already dealt with. I have only document volume 3.

THE PRESIDENT: Will counsel then proceed with Blome documents?

DR. SAUTER: Yes, Mr. president.

The next document, on behalf of Blome, are documents in Blome supplemental volume 4. These are the documents Blome Nos. 24, 25, and 26. I repeat Nos. 24, 25 and 26, which all had the common exhibit No. 18. I am now continuing with the presentation of the Blome documents, starting with document No. 17. I repeat Document No. 17, which will receive the Exhibit No. 19. I repeat Document No. 17 will be given Exhibit No. 19 in Blome's supplemental volume. This is an affidavit signed by Professor Dr. Knothe, who comes from Goslar.

I am not going to read these affidavits, nor shall I read the others, but I shall merely confine myself to a brief statement of the contents. This Professor Knothe, who signed

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Affidavit No. 17, was for many years the chairman of the German X-ray Association. He states in this document that Professor Blome had won great merit in many fields, particularly in the field of combatting tuberculosis and also in the field of combatting cancer. He states about what Blome did and I quote: "tried to raise the level of the general practitioner and organized them to a great extent."

I think that this will suffice and I ask to take notice of the entire contents of the document book.

The next document in Blome supplemental volume III is an excerpt from a German book entitled "Medical Micro Biology" by Dr. Miller. This is document No. 18. It will receive exhibit number Blome 20.

The original of this book was already received by the Tribunal on the occasion of the submission of the evidence on behalf of Karl Brandt, and I am referring to document 121 of Karl Brandt, that is when you received this book which was submitted to you by defense counsel of Dr. Karl Brandt this excerpt which was submitted to you as No. 18, Exhibit 20, is from a book which has been published after the Hitler period in the year 1946. It discusses various means of combatting and treatment of tuberculosis. I submit this book because of the accusation raised against the defendant Blome to participate in the extermination of thousands of Poles. From this document, of which I ask the Tribunal to take notice, the Tribunal will learn that the suggestions and views as they were expressed by Dr. Blome in his letter to the Gauleiter Greiser, conformed with the views of the German professional society at large, and that one cannot speak of any crime against humanity having been committed by the defendant Blome.

The next three documents in Blome supplemental Volume three are Blome documents 19, 20 and 21, which belong together; Document Blome No. 19 will receive Exhibit No. 3. This exhibit number had already been given to that document at an earlier date. This document has already once been submitted and received exhibit No. 3.

THE PRESIDENT: Was the document submitted in evidence or was its admission held for a subsequent decision?

DR. SAUTER: As far as I know it was already admitted into evidence because otherwise it would not have received an exhibit number. At the moment I am not sure.

THE PRESIDENT: Then why is it offered again, counsel?

DR. SAUTER: At that time, Mr. President, I submitted all of these three documents. They all refer to the well known assignments given by the Reich Research Counsel, the assignment given to Dr. Hirt

at Strassbourg and the assignment given to Dr. Rascher at Dachau. When the defendant Blome was examined, there seemed to have been some controversy as to whether these two assignments had to be credited to Blome or to Geheimrat Dr. Sauerbruch. In the meantime I have obtained the photostatic copies from the Prosecution and I am now submitting the three photostatic copies to the Tribunal. These documents have already received an exhibit number at an earlier date.

MR. HARDY: I believe at the time, Your Honor, defense counsel, used them and he did not offer them formally and they were given numbers.

THE PRESIDENT: They will be received in evidence.

DR. SAUTER: I state once more that document No. 19 in Blome document book III will receive exhibit No. 3. Document No. 20 will receive exhibit No. 4 and document Blome No. 21 will receive exhibit no. 5.

This brings me to document Blome 22 which will receive exhibit No. 21. This is an affidavit by Professor Dr. Strakosch, who is well known in Germany. This affidavit was signed on the 8th of March 1947 and certified in the proper manner by a German notary. I shall not quote this affidavit but merely confine myself to pointing out that Professor Strakosch was a man of mixed descent of the first degree who got into difficulties in the German Reich for racial reasons. He turned to Blome for help and was supported by him very actively. This enabled him to continue his medical activities without any difficulty also in the Third Reich. I may perhaps quote one sentence from that affidavit. It says on page 12 of the German text, and I quote:

"I can further confirm from my own experience that Professor Blome was not one of the fanatical and ruthless types of the Hitler regime. He always was rather popular because of his courteous and conciliatory nature, and, also, when a physician at Rostock, he had numerous patients from the ranks of his personal adversaries. According

to my experience and personal impressions he always had the intention of smoothing matters out, and in his political conviction he was an idealist but certainly not a profiteer."

THE PRESIDENT: What number, doctor?

DR. SAUTER: This is document No. 22, Exhibit No. 21. The next document is No. 23 and will receive exhibit No. 22. This is a short affidavit, signed by the defendant, Professor Dr. Blome, dated the 1st of April 1947 which has been certified in the proper manner by defense counsel. This document only gives a few illustrations as to how Professor Blome was regarded by recognized and well known physicians who are still well known and recognized in Germany today and I ask you to take notice of it.

MR. HARDY: I must object to this affidavit Blome which concerns three or four letters he has received and about which his defense counsel makes the statement and thinks it is admissible. I request the Tribunal to peruse this quickly and see why I am objecting to this.

DR. SAUTER: I ask you to overrule the objection. I don't see why a defendant should not be able to submit an affidavit about facts like that. This is a trial wherein the Prosecution has obtained an affidavit from every one of the defendants and often even more than one affidavit.

THE PRESIDENT: It appears that there is at least one statement in the affidavit to be considered. The exhibit will be admitted and those parts of the affidavit which are incompetent will be disregarded by the Tribunal.

MR. SAUTER: This, Mr. President, brings me to the conclusion of supplemental volume No. 3.

There are two more documents which I want to submit to you which I have already included in Blome volume I. When at the time I submitted these documents the Prosecution objected to the fact that the signature of the well-known Professor Dr. Bergmann and that of the well-renowned Professor, Mr. Martius were not certified in the proper

manner. I represented the point of view at that time, that people of that reputation could not be asked to go to a notary. The Tribunal, however, decided against my point of view and did not accept these documents. As a result I had to undertake the very unpleasant duty of taking these two gentlemen to have their affidavits certified by a notary. These two gentlemen have done so and these two documents therefore are now in perfect order from a formal point of view and I am submitting them to the Tribunal.

One is Document Blome No. 3, which comes from the first document volume. This will receive Exhibit Blome No. 23. This is an affidavit signed by the world wide renowned Professor von Bergmann, who enjoys the same reputation in the United States as in Germany and who is now the head of a large medical clinic at Munich. In this affidavit (and considering the brevity of time, I shall not quote, although it is of extensive importance for the defendant Professor Blome) the scholar confirms that the defendant Dr. Blome performed a tremendously meritorious service for furthering progress of the German medical profession during Hitler's rule. For that reason I do not believe that Blome can in any way be responsible for any excesses having been committed in Germany. I am now submitting this affidavit signed by Professor von Bergmann of 22 January 1947, which was certified by the notary in the proper manner, which will be No. 3, Exhibit Blome No. 23.

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A similar situation prevails in the case of the next document which is an affidavit signed by Professor Dr. Martius from Goettingen dated the 7th of February 1941, which was submitted at that time as Blome Number 13 and will now receive Blome Exhibit Number 24. This is a very short but very important affidavit signed by Professor Dr. Martius. It confirms that the defendant Blome made great endeavors to elevate the level of the scientific spirit in Germany and was always trying to remove any National Socialist excesses from the profession. I am handing this document to the Secretary General and this brings me to the conclusion of my submission of evidence on behalf of the defendant Dr. Blome.

MR. HARDY: The Martius certificates on each document are in order, your Honor.

THE PRESIDENT: The exhibits referred to by the counsel for the defendant Blome are in evidence.

MR. HARDY: Your Honor, would it be possible for defense counsel to ascertain which of defense counsel will be ready tomorrow morning with their document books?

THE PRESIDENT: I understand that Dr. Sauter is ready with some supplementary books on behalf of defendant Ruff.

DR. SAUTER: Yes, my document book is ready and in case you have no English translations available, I shall bring them along with me, and I shall thereby be able to assist the Tribunal. If you like I can start the first thing tomorrow morning.

MR. HARDY: Rudolf Brandt's documents will be ready.

THE PRESIDENT: I understand that.

DR. WEISSGERBER: Mr. President, I am representing the counsel Dr. Kaufmann and shall be able to submit supplemen-

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tal documents on behalf of the defendant Rudolf Brandt tomorrow morning. I have found out recently that the translation of the supplemental document book on behalf of my client, Sievers, has not yet been concluded.

DR. FLEMMING: Mr. President, tomorrow morning I shall be able to submit document volume number 2 for Mrugowsky which has already been before the Tribunal at an early date but has been postponed until all the submission of evidence had been concluded, since it dealt with human experiments as they were conducted by foreign nations. My supplemental volumes 2 and 3 are still in translation and I have not yet received them back. One of these document books only contains excerpts from the record of the Pohl trial. The presentation will only last a very short time since it merely contains excerpts from records. The other document book contains a number of affidavits and its presentation will last approximately 15 to 20 minutes.

MR. HARDY: Then we can delay the Mrugowsky presentation of documents until they are all ready.

THE PRESIDENT: Yes, we will not call those while there are others which are complete and ready to be presented.

DR. WILLE: Mr. President, I have four supplemental document volumes in both the German and the English language. They are ready and with your permission I shall submit them tomorrow morning.

THE PRESIDENT: We shall proceed with these documents tomorrow morning, probably taking up Dr. Sauter's first. He has just completed his offer on behalf of defendant Blome, but we will proceed in order as may prove convenient.

The Tribunal will now be in recess until 9:30 O'clock tomorrow morning.

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THE MARSHALL: The Tribunal will be in recess until 0930 hours tomorrow morning.

(The Tribunal adjourned until 0930 hours, 28 June 1947.)

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Court No. I.

Official Transcript of the American
Military Tribunal in the matter of the
United States of America against Karl
Brandt, et al, defendants, sitting at
Nurnberg, Germany, on 28 June 1947,
0930, Justice Beals presiding.

THE MARSHAL: Persons in the Courtroom will please find their
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United
States of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the de-
fendants are all present in court.

THE MARSHAL: May it please your Honor, all the defendants
are present in the court with the exception of the defendant Ober-
hauser, who is absent due to illness. Medical certificate will be
presented at the earliest possible moment.

THE PRESIDENT: The Secretary General will note for the record
the presence of all the defendants in court, save the defendant Ober-
hauser, absent on account of illness according to Medical certificate
by the Prison Surgeon.

Counsel may proceed.

Dr. Sauter, I do not find that your Supplemental Document Book
III has been made available to the Tribunal. I wonder if it is here -
for the defendant Ruff.

DR. SAUTER: Just a moment.

MR. HARDY: Supplemental Book III for the defendant Blome you
mean, Your Honor?

THE PRESIDENT: The defendant Ruff.

MR. HARDY: That has already been introduced as Exhibit No.
20.

THE PRESIDENT: The documents which you propose to offer in
behalf of the defendant Ruff begin with his Document Book IV, is that

correct?

DR. SAUTER: That is right, yes.

THE PRESIDENT: Very well, proceed.

DR. SAUTER: As counsel for the defendant Ruff I shall begin putting in the documents in his Supplemental Volume IV. The first one in this volume is Document No. 22, which will be Exhibit No. 21.

MR. HARDY: May it please your Honor, Dr. Sauter calls to my attention that he has three further documents to introduce in the case of Blome. And, it is suggested, inasmuch as the record yesterday ended up with documents of Blome, that today he continue with the three documents of Blome and then start Ruff. In that way the record will have some continuity.

THE PRESIDENT: Excellent suggestion. Counsel will proceed with finishing the documents Blome. Have these documents been furnished to the Tribunal? Does the secretary know, or are they available? The Tribunal does not have these documents you mention, counsel.

DR. SAUTER: In order to be perfectly sure I have brought the necessary number of the English translation with me and can give them to you without any difficulty.

THE PRESIDENT: Thank you, counsel.

DR. SAUTER: I shall then say the rest of what has to be said in the Blome case. Previously I put in Supplemental Document Book IV in the Blome case which contains three continuous documents, namely 24, 25, and 26, all of which pertain to one subject. These are excerpts from several annual volumes from the Medical Journal entitled "The Philippine Journal". We have dealt with these excerpts already in the Rose case, and when Professor Ivy was on the stand, who also made statements about those experiments which are mentioned in this Philippine Journal - the experiments carried on by Strong. In the session of 21 March I gave no exhibit number to these documents 24, 25, and 26, because at that time there was no translation of them and the Court ruled that it would be expedient to give them an exhibit number

after the translation was ready. They have now been translated and I now give these Blome documents 24, 25, and 26, the common exhibit number 18 for all three of them. This deals mainly with those experiments - the plague experiments - that were already dealt with in the hearing of Blome and the witness Dr. Rose, so that I need not say anything further about these documents.

THE PRESIDENT: Then Doctor, I understand that your Document Book, Supplement IV, will be marked Blome Exhibit 18. That covers your entire Document Book Supplemental IV, is that correct?

DR. SAUTER: Yes, and all three documents will have the exhibit No. 18.

THE PRESIDENT: There are no other documents in that book except the three you have referred to?

DR. SAUTER: That is correct, yes.

THE PRESIDENT: Very well.

DR. SAUTER: That definitely concludes my defense of the defendant Blome and I proceed now to putting in the further documents for the defendant Ruff. So far, documents up to Document 21 have been put in. I shall now begin with Supplemental Volume 4, containing, first of all, Ruff Document #22, which receives Exhibit No. 21. These are minutes put in in the other Military Tribunal, of which I here have a certified copy. This is the record carried by the director of a criminal institution by the name of Strelow, who was employed during the Hitler Regime in a prison in Berlin. In his affidavit, which the Secretary General has, he states that in the Prison Ploetzensee in Germany, experiments were carried on with poison gas during Hitler's regime but only on criminal criminals and not on political prisoners, and only on volunteers who had been condemned to death; in addition, he says that these matters were kept so strictly secret that even the prison officials know nothing of them unless they were immediately concerned in them. That is the contents of document 22, Exhibit NO. 21, which the Secretary General has in his possession and which was put in evidence in Case No. 3.

My next document is document No. 23, which will be Exhibit 22. The original of this sworn statement by a witness is to be found with the General Secretary, Miss Mandellbuh), who has certified the correctness of the signatures thereon. This is the testimony, under oath of the former medical inspector of the Luftwaffe, Professor Hippke, in sessions of the American Military Tribunal II of 7th and 11th February 1947. I have taken excerpts from this testimony, which is very long and which I shall not read and which I ask the Tribunal to take judicial notice. I have extracted from this long testimony a few salient facts; primarily, the fact that only volunteers were used in the Ruff-Romberg experiments and these volunteers were all criminals; secondly, that Ruff did not act on his own initiative in these experiments but only on orders from his highest superior;

thirdly, that in the opinion of the highest medical inspector in the German Luftwaffe, these high altitude experiments by Ruff and Romberg were absolutely necessary in order to clarify a problem that was particularly important to Germany at that time and to the air forces of every country at that time; and, finally, that the way in which these experiments was carried out was in keeping with all the tenets of humane behavior. I ask the court to take notice of this document but shall read nothing from it. These are the 2 documents in Ruff Supplemental Volume 4 and now I come to Ruff Supplemental Volume No. 5, which contains documents 24, 25, and 26. Document No. 24 will be Exhibit No. 23. This is a list of the penalties to which Vioney was subjected. The original is with the Secretary General who made the original available to me only for a few days so that I might make this copy and have it certified.

MR. HARDY: As I understand it, the original is in the hands of the Secretary-General?

DR. SAUTER: That is right.

MR. HARDY: Then I suggest that the original be made available to the Clerk of this Court as an exhibit before this Tribunal, your Honor.

THE PRESIDENT: The secretary will procure from the office of the Secretary General the original record referred to by counsel for the defendant Ruff - Document No. 24.

DR. SAUTER: I asked at that time to be able to keep the original so that I could put it to the Tribunal but I was told that I would have to return the original to the Secretary General because on the original there is a note by the German Police authorities that after the original had been used it should be returned to the German authorities in Hanover. That is the reason why the General Secretary would not let me have the original.

THE PRESIDENT: Under these circumstances the original should

not be introduced in evidence but a photostat made. The secretary will procure the original for production before the Tribunal for examination and bring a photostat of the document, if any has been made. If none has been made then one will be procured.

MR. HARDY: Your Honor, the secretary will have considerable difficulty finding if it has been returned to the German authorities.

THE PRESIDENT: Well, if it has been returned, of course it is not now available in the office of the Secretary General; but the secretary will ascertain whether or not it has been returned and, if the original is in the office of the Secretary General, produce it before the Tribunal for examination.

DR. SAUTER: For the information of the Secretary General, I received the original from Miss Benford at that time and I gave the original back to Miss Benford after I had made my copy.

MR. HARDY: Doesn't Dr. Sauter have anything to offer as an exhibit - a certified copy of it signed by perhaps the Secretary General, or authenticated by himself?

THE PRESIDENT: Yes, the document bears a certification by Dr. Sauter.

MR. HARDY: He does not have an exhibit, your Honor, he merely has copies of document books.

THE PRESIDENT: This certificate apparently reads: "I herewith certify the above extracts from the criminal record as a true and correct copy of the original before me."

MR. HARDY: He does not have an exhibit, as such, to offer to the Court at this time as an exhibit; he only has copies in these document books.

DR. SAUTER: That is the only way I can do it, your Honors. If I received an original from the Secretary General I would have to give it back the next day or the day after. I can only make a copy; otherwise there is nothing I can do.

THE PRESIDENT: Somewhere there must be an original certified

by Dr. Sauter over his original signature that this is a correct copy; Dr. Sauter must have signed something because this is a copy of his signature. This matter will not be at all difficult of adjustment and we might wait until the morning recess and then straighten it out.

MR. HARDY: But in this case, your Honor, the Prosecution is very interested in seeing the original document or a certified copy of it, certified by the proper authorities.

THE PRESIDENT: If the original document is still available here a messenger can go immediately to the office of the Secretary General and ascertain whether or not it is there, or with Miss Benford, 'I don't know where it would be. The Tribunal is also interested in seeing the original if it is available.

DR. SAUTER: Let me say the following regarding this document, This Mr. Vieweg who was here heard and was heard in Dachau, manifested a remarkable memory regarding what had happened in Dachau but his recollection was particularly confused about his own life.

THE PRESIDENT: Well, counsel, this document is clearly admissible in evidence as an exhibit. The only thing that is now under discussion is some matter of mere process that surely can be adjusted with a little time. I suggest that counsel proceed to the next document until we hear word from the Secretary General concerning the original of this document.

MR. HARDY: It is agreeable with us to mark it Exhibit No. 23 and admit it provisionally; and if there is any objection on any part later I can raise it and if I do not raise it we will assume that the document is admitted as Exhibit No. 23

THE PRESIDENT: Very well. That procedure will be followed. It will be marked exhibit 23, admitted provisionally, subject to further examination of the original record.

DR. SAUTER: This list of convictions for Vieweg I have put in order to show you that this man committed outright perjury and that his

testimony as a whole is to be regarded with the greatest of suspicion. From this record of convictions it can be seen that this man, who said he could not remember having been previously sentenced, had never-the-less received no less than 5 previous convictions, one of which was 5 years in the penitentiary and 5 years of loss of Civil rights. This witness volunteered and was called by the Prosecution, and in this Document No. 24, Exhibit 23, he is shown up in his true colors.

I go now to the next document. This is Document No. 25 and will be Exhibit 24.

This is an affidavit by Dr. Werner Loeckle of 2 May 1947 properly certified by the Police Headquarters in Frankfurt. This Dr. Loeckle states in his affidavit that an assignment to Dr. Ruff's institute was never given by him. This is a matter of some importance in judging Ruff's position in his institute.

The next one is Document 26, Exhibit 25. This is an affidavit by Professor Karl Lucrenbaum of 30 April 1947 correctly certified by the authorities in Honnau on Rhine. This affidavit concerns itself with the same problem as the foregoing affidavit; namely, the fact that a branch office of the DVL, that is the German Research Institute for Aviation, ever existed in Dachau and moreover, that all the research assignments to Dr. Ruff were ordered by the Air Ministry so that it wasn't Ruff's personal interest in such matters that got him these assignments. These are the documents in Document Book Number 5, and now I come to Document Book Number 6. This contains Document Numbers 27 to 31.

Document Number 27 is an affidavit by Professor Seewald and is Exhibit 26, dated 19 May 1947. It has been correctly certified by the local police. I ask the Tribunal to take notice of it. This affidavit also certifies that there was no branch office of the DVL in Dachau.

Now, an affidavit by Otto Fuchs who has already put in an affidavit on another subject. This affidavit is of 19 May 1947 and has been correctly certified by the Mayor of Dachau. I ask the Court again to take notice of this. I shall not read it into the record. It too concerns itself with the fact that there was no branch office of the DVL in Dachau and that there was no assignment inside to this research institute.

The sixth document concerns itself with a quite different field, Document 29, Exhibit 28. This is an affidavit by Dr. Wilhelm Hornberger of 21 May 1947 which also has been certified by the competent authorities in Tuebingen. In view of its length I ask the Tribunal to take notice of its contents, and I shall not read it. I can give you a brief

synopsis of the contents. Dr. Hornberger, who has been working at the Aero-Medical Center in Heidelberg for two years is probably the first specialist in Germany in the field of pressure fall sickness regarding which we have already heard many details here. Dr. Hornberger concerned himself with these problems both for the German air force and in the Aero-Medical Center. This is his specialty, and he makes statements regarding an assertion that was also made here by the prosecution; namely, that pressure fall sickness could only be caused by the formation of bubbles in the blood circulation system, and he says that the same thing can happen by the formation of gas bubbles in the tissues rather than in the blood circulatory system. He says that the injury can be caused by bubbles in the circulatory system only when an occlusion is formed and thus stops the flow of blood. I don't want to go into the medical aspects of this. The defendant Ruff has himself expressed his opinion on this matter, and also Dr. Ivy who is a specialist, and they have pretty well substantiated what Dr. Hornberger here states. Therefore, I ask the Tribunal to take notice of these highly complicated scientific data to be found in this affidavit of Hornberger.

Now comes another affidavit, namely, one by Dr. Matthes.

THE PRESIDENT: This affidavit, the one by Hornberger, you assign the number Exhibit 28, I assume?

DR. SAUTER: Yes. The next document is Document Number 30 which will be Exhibit #29. This affidavit by Dr. Matthes of 6 June 1947 has been correctly certified by a German notary. Matthes had previously put in an affidavit which he now supplements with the affidavit, the original of which I have just given the Secretary General. This affidavit concerns itself with the question when the low-pressure chamber was moved from Dachau back to Berlin, and the answer of this question will give the definitive answer to the question when Ruff-Romberg experiments were finally concluded. Matthes confirms that at the beginning of June, 1942 the low-pressure chamber was taken back to

Berlin, and he says moreover that the damage to the barometer, regarding which a witness here testified, was not at the end of May 1942, but quite a while previous to that, and that the damage was repaired long before May of 1942. In order to save time I shall not go into this matter either, but put in my next document, Document Ruff Number 31, which will be exhibit Number 30.

This is an affidavit by General Adolf Galland of 1 June 1947 which has been correctly certified by a German notary public. This Adolf Galland was perhaps the best known German fighter pilot and, at the end, the chief of all pursuit plane organizations. Therefore he is a man of particular authority in judging the question whether and to what extent the experiments carried on by Ruff and Romberg helped to solve the problem of rescue from high altitudes, and to what extent and whether they were necessary for German aviation and for aviation in general. This particularly competent fellow says here in his affidavit that in his opinion Ruff's and Romberg's experiments in Dachau were absolutely necessary to the interests of the Luftwaffe and aviation in general and it was necessary also that they be carried out at maximum altitudes, much higher than 12,000 meters, but he doesn't say whether the maximum height is 15,000 or 20,000 meters or any other specific number of meters.

From this very interesting, and in my opinion very important, affidavit I shall read nothing, but I draw it to the attention of the Tribunal. The next document is the last one in this document book Ruff number 6, Document 32, Exhibit 31. This is a document that was put in when Ruff was being heard; namely the work record of the foreman Karl Fohlmeister. I should be only too happy to show you the original of this work record but I am somewhat embarrassed in this because just a few days ago this foreman Fohlmeister wrote me asking me to return the original to him because it also contained a number of private entries covering many years, and he needed the book again. I just showed

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the original of the book to the prosecutor and pointed out to him the two passages in question and asked him to convince himself that the copies in this document book number 6, Exhibit 31, Document 32, exactly correspond to the original.

MR. HARDY: If your Honor please, I am unable to do that because of the lack of knowledge of German. However, before doing that, we have nothing before the Tribunal to indicate the authenticity of this document, where it came from what it purports to be. The prosecution doubts what it is, and according to the regulations of the Tribunal the manner in which documents should be submitted here, if they are German original documents, they should be properly authenticated with a descriptive certificate, if necessary. This document is clearly inadmissible in evidence in this form.

THE PRESIDENT: Counsel, was there any direct testimony concerning this book? I have a recollection of some time book having been referred to by someone. May be this might be another one.

MR. HARDY: It was referred to in defendant Ruff's examination, but he had never seen the book before, Your Honor. This a book of an entirely different person.

THE PRESIDENT: I wasn't sure what the testimony was, but I remembered something. It was the testimony of the defendant Ruff.

DR. SAUTER: This is exactly the same book. I put it to the witness at that time, and at that time asked the prosecuting attorney to assure himself of the authenticity of it, and at that time again he said that he didn't know enough German to do so. That is, however, not necessary because whether I talk German or English makes no difference. Anybody can see whether the book was actually written at that time or whether it was just made up lately.

MR. HARDY: Your Honor, that isn't the purpose of my objection. At the time this was used in the defendant Ruff's examination it wasn't offered in evidence. At that time it wasn't appropriate for the prosecution to object, but at this time it is being offered. I am not objecting to it as being in the German language; I am objecting to the document as it is not properly authenticated. I don't know but what this might be a book of some workmen working in some other institute. There is

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no way to —

THE PRESIDENT: Is there any affidavit by the foreman Fohlmeister?

DR. SAUTER: Yes, of course, there is. That's the next document I am going to put in. Perhaps discussion of this book, exhibit # 31, can be postponed until that affidavit has been brought to the attention of the Tribunal. Perhaps then the prosecutor will adopt a different point of view.

THE PRESIDENT: Very well. Consideration of this exhibit will be delayed.

DR. SAUTER: I turn now to my next document. This is in supplemental document book number 7.

THE PRESIDENT: Counsel, the Tribunal has not received that document book.

DR. SAUTER: I know that, your Honors. This affidavit is dated 11 June 1947 and I received it only four days ago. Three days ago I sent the copies in for translation with a request for a rapid translation but, of course, it hasn't been translated yet. I ask permission to be able to tell you the contents of this affidavit. That will then conclude the complete presentation of my defense and will give me —

THE PRESIDENT: Supplemental Document Book 7 contains merely one affidavit?

DR. SAUTER: That is so, yes, an affidavit by this chap, Fohlmeister, the man who kept this work record for years on end, in his affidavit, testifies to the authenticity of this work book so that you will then be in a position to rule on the admissibility of that book.

THE PRESIDENT: Well, the original affidavit then is present in Nurnberg in some office being translated?

DR. SAUTER: I have the German original here. Copies of it are in the translating branch.

THE PRESIDENT: Well, that can now be considered. He can consider the offer of that exhibit at this time.

MR. HARDY: Your Honor, I might inquire as to the fifth paragraph of this document. Whose handwriting is this in the light blue ink? It is a different handwriting than the signature of the affiant.

DR. SAUTER: That is different ink, but the handwriting is the same. Both handwritings are those of Fohlmeister who, at the end of paragraph 5, signed the affidavit and the whole thing is certified by a notary public in the District of the Kammergericht Berlin, Kurt Werner Hein, so the prosecutor will not be in a position to state that this handwritten addition which is paragraph 5 is not identical with the handwriting of the rest of the document.

THE PRESIDENT: The Secretary will pass the original affidavit to the Tribunal for examination.

MR. HARDY: I might note, Your Honor, that the light blue ink is put in apparently after the notary or after the affiant or either before, because the affiant's signature and the notary's signature are in the same color ink. Your Honor, I withdraw my objection to the note book if this affidavit is admissible in evidence as such. It is properly authenticated. I was merely questioning concerning paragraph number 5. However, I do suggest that the work book be given to the court interpreter and ask him to interpret those words written in German for me please.

DR. SAUTER: You have the translation as document —

THE PRESIDENT: Concerning this exhibit and the reference by counsel for the prosecution to the fact that paragraph 5 is written in a different color ink, the Tribunal has examined the original affidavit. The signature of the affiant Fohlmeister appears below four lines of handwriting in a different color ink, but that signature of the affiant is in the same color ink that the signature of the affiant is written.

Now, if the addition in the lighter colored ink, light blue ink, had not been written prior to the signature of the affiant on page 2 of the affidavit, it would be a very curious coincidence that the affiant had signed far enough below the last line of typewriting to allow just those

four lines in ink to have been written in afterwards. Prima facie the affidavit appears to be perfectly regular in form. Unless counsel for the prosecution desires the affidavit to be read into the record by the interpreter.—

MR. HARDY: Obviously the light blue ink is in the same handwriting as the affiant, but the typewritten line above the light blue ink ends the affidavit.

THE PRESIDENT: The mere question is whether these four lines in ink were written before the affidavit was made. The affiant may well have added something to the affidavit before it was sworn to, even though the form of the typewriting apparently concludes the affidavit.

MR. HARDY: But I am talking about the sentence before the ink, as a concluding sentence to an affidavit.

THE PRESIDENT: I understand that, but still there is nothing to prevent an affiant from adding a paragraph after the typewriting if he adds it before he swears to it before the notary.

MR. HARDY : If those circumstances are true, that is correct, your Honor.

THE PRESIDENT: And the position of the signature of the affiant on page 2 of the affidavit indicates that the ink was written before he signed it, and that signature being written in the same ink which he signed the affidavit, apparently before the notary. The affidavit may be admitted, and I take it, counsel for the prosecution, this removes your objection to the other exhibit, the extract from the time book?

MR. HARDY: Yes, Your Honor.

DR. SAUTER: Mr. President, let me say the following regarding this last affidavit. I wrote first of all to Fohlmeister to have him certify the entry in the work record, and those are the points that Fohlmeister first takes up in his affidavit. Then in a second letter I asked Fohlmeister whether he knew why the witness Matthes went to Cologne. Then, in answer to this last question, Fohlmeister put down his number 5 in

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this affidavit and if the first four are typewritten and the last, namely, number 5 is in ink, the explanation of that is that the inquiry that led to number 5 came much later than the inquiry that led to the first four paragraphs. Now, Mr. President --

THE PRESIDENT: The Tribunal is satisfied. Ruff's Document Number 32 contained in his supplemental document book 6 is admitted as Ruff Exhibit 31. The affidavit of Karl Fohlmeister which has been examined by the Tribunal, and which I assume would be Ruff Document 33, is admitted in evidence as Ruff Exhibit 32. The translation, of course, will be filed when it is ready.

DR. SAUTER: Then I may take the original of this work record with me and return it to Herr Fohlmeister. I am quite willing to leave it with Mr. Hardy, for a few days if he wishes but I ask then that it be returned.

THE PRESIDENT: Does the prosecution desire to examine the document? The prosecution may keep it for a few days if you desire.

MR. HARDY: I will have one of my analysts look it over, your Honor.

THE PRESIDENT: Very well, counsel.

DR. SAUTER: That concludes my defense of the defendant Ruff.

THE PRESIDENT: The Tribunal notes that the counsel for the defendant Ruff has concluded his defense.

MR. HARDY: I suggest, your Honor, that when Dr. Sauter gets his work book returned to him that he make extracts of the two entries and have them certified and file them as an exhibit so that the Secretary General's office will have an index file for that particular exhibit.

THE PRESIDENT: Very well. Counsel for defendant Ruff will comply with the suggestion made by the prosecution.

DR. SAUTER: They are already in. They have already been put in as a document.

THE PRESIDENT: I understand, but does counsel for the prosecution desire a photostat made of those two entries?

MR. HARDY: It is my understanding that the Secretary General does not have an exhibit folder as such with that number as it is not an exhibit until he has a folder with the exhibit in it.

THE PRESIDENT: The formal original exhibit must be prepared.

DR. SAUTER: Mr. Hardy has the document, so how can I give it to the Secretary General?

MR. HARDY: I thought I made myself very clear that when I returned the document to him, it will be necessary for him to make extracts of the two entries, have them certified to be correct and true

extracts of the entries in the document, typed on to a piece of paper, put in to a folder and given an exhibit number, and turned over to the Secretary General.

THE PRESIDENT: For the record before the Tribunal, for the copy of that exhibit in the document book, it would appear that that has already been done. Of course, whether it has or not we are not advised but the record is complete before the Tribunal.

DR. SAUTER: Of course, that was all taken care of long ago.

MR. HARDY: The Secretary General does not have a folder marked Exhibit 31.

DR. SAUTER: The best thing to do would be for the prosecutor to take a photostatic copy of this book and give the original back and then everything would be all right.

THE PRESIDENT: The Exhibit, Document 32, as it appears, Ruff supplement 38, on page 111, purports to be a copy of these memoranda. It bears on the face of the paper: "I herewith certify that this is a correct copy of the extract of the original before me, Nuernberg, 12 June 1947. (Signature) Dr. Sauter."

MR. HARDY: That will be necessary for Dr. Sauter to take one of those mimeographed copies and sign it and put it in the Secretary General's office. I am taking the position of the Secretary General, not the prosecution.

THE PRESIDENT: Counsel is correct. If no original to that certificate has been filed with the Secretary General, counsel for the prosecution is correct, that should be done.

JUDGE SEBRING: Dr. Sauter, will you please turn to Document Book for Ruff, Supplement #6, Document 32, as it appears in your document book?

DR. SAUTER: Yes, I have it.

JUDGE SEBRING: Let's see it. Hold it up, please. Now, where, Sir, is the original paper that was signed by you on this exhibit?

DR. SAUTER: At the moment I cannot tell you. I assume that it

has been turned in somewhere. The document itself is here in the possession of the prosecution. The original of the document is now in the possession of the prosecution.

JUDGE SEBRING: I mean the certificate that you made and put your name to, the copy of which now appears in the document book.

DR. SAUTER: This is always given to the Secretary General with the request for translation and that is the document that has my original signature. I give this document to the Secretary General with the request for translation.

JUDGE SEBRING: And such a document was given to the Secretary General and it was from that that this multigraphed copy was made?

DR. SAUTER: Of course, with four copies; but if this seems so important I can again put the thing in with my personal signature. I am only too happy to do so, should that seem expedient.

JUDGE SEBRING: The only question is, Doctor, that, according to the secretary of this Tribunal that original document bearing your signature does not seem to be with the Secretary General. It would be a very simple matter for you to sign another copy and hand it to the Secretary General because his record must be complete. That is the only difference.

DR. SAUTER: I shall only be too happy to do so.

MR. HARDY: Your Honor, Secretary General, Major Hatfield tells me he has seven exhibits missing of the documents introduced this morning. He does not have seven exhibits in his files.

THE PRESIDENT: During the morning recess which I think we will take now before we open another case, investigation can be made at the office of the Secretary General to find out if those original documents are there.

MR. HARDY: Your Honor, the original documents have no occasion to be there. When prosecution or defense counsel introduces a document they carry the original document or certified copy with them to the Tribunal at the time of introducing the document, affidavit or German

original document the documents are merely for the convenience of the Tribunal and for the prosecution.

THE PRESIDENT: I understand but I thought these documents were made for the office of the Secretary General, that those are for the translation division.

MR. HARDY: I never have given the major here his copies for the true exhibits.

THE PRESIDENT: The exhibits must be filed, of course, During this morning recess investigation can be made as to where or not the exhibits are there because these originals must be filed with the Tribunal.

The Tribunal will now be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel.

DR. WEISGERBER (Representing Dr. Kaufmann, defense counsel for the defendant Rudolf Brandt): Mr. President, I have 7 supplemental documents to offer. The first is Rudolf Brandt Document #15, which will receive Exhibit number 15. This is an affidavit signed by a certain Sepp Tiefenbacher, who lived with Rudolf Brandt for many years and has much to say from his knowledge, about the manner in which Rudolf Brandt worked and lived. This affidavit bears the date of 2 April 1947. I should like to read the third paragraph I quote:

"Dr. Brandt's activities are frequently overrated, owing to ignorance of the organizational structure of the SS. Brandt took down dictation from Himmler or gave it from Himmler's brief instructions. Beyond these activities he hardly exerted any influence. The clearest proof of this is the Brandt main division Hauptabteilung. It was so understaffed that it had difficulties in coping merely with the clerical work and did not possess the technical organization required to cope with Himmler's extensive field of activities. Consequently, Dr. Brandt lacked all the prerequisites for assuming the role of an adviser."

I skip the next part of this affidavit, and I should like to quote again on page 2 of this document; reading the last 2 sentences of the second from last paragraph, I quote:

"He has never secured or attempted to secure an advantage for himself on the basis of his official position. His widely known readiness to help others arose from his sincere and kind heart, and remained unimpaired, even when his lack of knowledge of human nature caused him various disappointments."

I ask the Tribunal to take notice of the rest of this affidavit. This document has been signed and certified in the proper manner.

The next document is Rudolf Brandt No. 16 and will also have the Exhibit number 16. This is an affidavit signed by the judge of the local court (Amtsgerichtsrat) Gerhard Herrgesell, who knew Dr. Rudolf Brandt

from his early school days, having gone to school with him. It throws much light on my client's personality, when somebody who has lived with him for many years testifies about his character. I should like to quote the third paragraph of that affidavit. I quote:

"I have always seen in Dr. Rudolf Brandt, as a school boy and a student, a model of industry, cleanliness and inmate decorum. Through his industry he reached the highest speed in stenography when a mere school boy. As far as I remember, he had a speed of 360 syllables a minute at a schoolboys' test in the autumn of 1927 and achieved speeds of more than 300 syllables a minute in a great number of tests up to the year of 1933. Since I attained such speed in shorthand myself, I know what long, untiring industry and also what a temperate way of line is necessary in order to achieve such results. On account of his parents' simple circumstances, Dr. Rudolf Brandt led a particularly modest life during his school days and student days. This moderation enabled him to pay for all his studies out of his own earnings."

I ask the Tribunal to take notice of the rest of this affidavit. This document has been signed and certified in the proper manner.

The next affidavit which I am going to submit is Document Rudolf Brandt No. 17. It is an affidavit signed by Dr. Wilhelm Stuckart, a former State Secretary in the Reich Ministry of the Interior. Dr. Stuckart, on the basis of his former activity as State Secretary in the Reich Ministry of the Interior, is in a position to give material testimony regarding Rudolf Brandt's activity as the head of Himmler's Ministerial Office (Ministerbuero). I shall quote the first two sentences of the second paragraph of this affidavit:

"I am able to judge Dr. Rudolf Brandt's position only after August 1943, and then only as far as my sphere of work at the Reich Ministry of the Interior is concerned. Under the Reich Minister of the Interior Dr. Frick there already existed a so-called Ministerial Office."

I shall skip the next sentence, and I shall continue to read paragraph 3. I quote:

"When Dr. Frick was replaced by Himmler in August 1943, Himmler formed a new Ministerial Office, consisting of Dr. Brandt, two assistants, and a secretary. This Ministerial Office was not situated at the Ministry of the Interior in Berlin, but at Himmler's Field Headquarters, which was in the immediate vicinity of the Fuehrer's Headquarters. Himmler demanded that ministerial affairs should be reported to him there to a considerable extent. Hence, from that time onward, the Ministerial Office became the place where the documents of the Ministry of the Interior were brought by couriers for delivery or presentation daily. Himmler, on principle, did not permit the members of the Reich Ministry of the Interior to communicate with him by telephone. Therefore, the telephone calls of the officials of the Berlin Ministry of the Interior were received by the Ministerial Office. Dr. Brandt reported them to Himmler and delivered Himmler's decision to the official concerned in writing or by telephone. The teletype messages of the Ministry of the Interior in Berlin were also delivered to the Ministerial Office. Brandt reported on all this and informed Himmler about the matters concerned, answering again all inquiries according to the decisions of Himmler, in that he informed the Berlin Ministry about all such decisions and orders of Himmler, either through written notes or by telephone.

"The volume of work of the Ministerial Office was very great. Dr. Brandt was exceptionally diligent and overburdened with work. He, himself, as director of the Ministerial Office, had no authority; neither did he possess any power of making decisions in ministerial affairs.

"I, myself, was State Secretary in the Reich Ministry of the Interior." This affidavit has been signed and certified in the proper manner.

DR. WEISGERBER, (representing Dr. Kaufmann, the defense counsel for the defendant Rudolf Brandt.) The next document, Your Honors, will be Rudolf Brandt No. 18.

THE PRESIDENT: Counsel, what has this document to do with the defendant Rudolf Brandt? I do not see his name mentioned in it at all.

MR. HARDY: At the same time, Your Honor, I wish that you would peruse the next document, which is Document No. 19. Those documents are apparently letters addressed to one Mr. Kersten, and the signatures of the writers or the authors of the letters are not authenticated, nor sworn to. There is merely a Notar's certificate stating that this document is a true photostatic copy of the original, which in no way renders these documents authenticated in the manner which the Tribunal has prescribed. Furthermore, I cannot see the connection and materiality of the documents in addition to that.

THE PRESIDENT: On their face, the documents have nothing whatever to do with the defendant Rudolf Brandt.

DR. WEISGERBER: Mr. President, I should like to make the following explanation in that connection: These two letters have probative value, no doubt, but how high this probative value is to be considered is a matter for the Tribunal to decide. I should like to recall that when Rudolf Brandt was examined in the witness box, he mentioned, among other matters, that he actively participated in the liberation and transfer of about 3,500 Jews from German concentration camps to Sweden. At that time an affidavit of Medizinalrat Felix Kersten, who is the addressee here, --- as Rudolf Brandt Exhibit No. 5. I thought I should submit these two letters of the Jewish World Congress, dated 15 December 1945 and 4 December 1946, to the Tribunal, because

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we are here concerned with a very important statement regarding this act of liberation. If this Felix Kersten the man to whom this letter is addressed, has made an affidavit in favor of the defendant Rudolf Brandt, I ask that in support of this affidavit for Rudolf Brandt these two letters of the World Jewish Congress be admitted, because they throw light on the conditions at that time, and it is for that reason that I believe that these two documents have a certain probative value.

THE PRESIDENT: The Tribunal rules that these documents have no probative value, and they will not be received in evidence.

DR. WEISGERBER: Then I shall offer in evidence as the next document Rudolf Brandt No. 20, which will receive the exhibit number 18. This is an affidavit signed by Ludwig Pemsel. I merely offer this document in evidence, and I should like to ask the Tribunal to take notice of it without my reading any of the passages.

The last document will be Rudolf Brandt Document No. 21 as Exhibit No. 19. This is an affidavit signed by a certain Gebhardt Himmel, which also refers to the sphere of work and activities of the defendant Rudolf Brandt. This document concludes all the documents as they are contained in Rudolf Brandt's supplemental volume.

THE PRESIDENT: The Tribunal has received no copies of these documents in German. These should be submitted to the Tribunal at some later date.

DR. WEISGERBER: Yes, Your Honor.

THE PRESIDENT: The Tribunal has just received Supplement I on behalf of the defendant Krugowsky. Is the defendant's counsel ready to present these documents? I don't see Dr. Flemming.

MR. HARDY: Defense Counsel for defendant Weltz is ready to present his supplemental documents.

THE PRESIDENT: Do I understand that counsel for the defendant Weltzer will present these documents on behalf of the defendant Mrugowsky.

MR. HARDY: No, Your Honor, the defendant Mrugowsky's document books are not in order and ready as yet for presentation. He has several supplements, I understand, but the defense counsel for the defendant Weltz is prepared to present documents for the defendant Weltz.

THE PRESIDENT: Very well, we will proceed with the documents for the defendant Weltz. We have not as yet received the documents.

DR. WILLE: (counsel for the defendant Weltz). Mr. President, I have only few affidavits which I want to offer in supplementation of my previous evidence. From the very beginning I have tried to keep my submission of evidence as brief as possible.

THE PRESIDENT: Just a moment counsel. Is the English translation of these documents available to the Tribunal?

DR. WILLE: Mr. President, I have them with me, except for one document, but I believed that they were all before the Tribunal.

THE PRESIDENT: These documents have just been handed to the Tribunal.

DR. WILLIE: May I continue, Your Honor? In supplementation of my submission of evidence, I first offer an affidavit signed by Dr. Wendt, whom I have mentioned here before. I tried once before and you, Your Honor, suggested that I submit this affidavit at the end of the entire submission of evidence. I should like to offer this document, Weltz Document No. 23, as Exhibit No. 21. The English translations

have been attached. I should not like to quote this extensive document, I believe that I can limit myself to summarizing the relevant contents in a few words.

THE PRESIDENT: Just a moment. These documents in the Document Book Weltz No. 3 are not numbered.

DR. WILLE: The document which I have just submitted was given to me by my secretary and she told me it was Document No. 23. I don't know why this supplemental volume has no numbers. That I really don't know.

THE PRESIDENT: Those numbers should be added. If you will number the original document book.

MR. HARDY: This whole presentation is only a question of one or two documents, I think, Your Honor.

THE PRESIDENT: I think that we can proceed. We can take down the numbers ourselves as they are assigned. What document number is this?

DR. WILLE: No. 23, Your Honor, Exhibit No. 21. I beg your pardon, Weltz Exhibit No. 22. In order to go back to your objection, Your Honor, I shall immediately see to it that all these documents are given proper numbers. I am surprised by the lack of numbers, and I shall proceed to clarify the situation immediately.

I shall briefly summarize the contents of this document. Captain of the Medical Corps Wendt, who had been for many years a competent assistant of Dr. Woltz in his institute, confirms here that Woltz at no time made any suggestion to him to carry out experiments on human beings at Dachau. Rascher at that time, without any influence from Woltz, came to the institute. And he further says that Wendt himself was surprised at this. Furthermore, he confirms that Rascher showed him a telegram from Himmler which indicated that the proposed experiments had to be kept secret from everybody, including Professor Woltz. Wendt drew his conclusions and stated immediately to Rascher that he, Rascher, could no longer stay at his institute. He subsequently dictated a letter to Air Gau VII, asking that Rascher be relieved of his assignment to his institute, Dr. Wendt in his affidavit goes on to say that the institute of Professor Woltz supplied no instruments for the later cold work carried out by Professor Holzlochner and that the furnishing of a calorimeter, which had been requested by a representative of Professor Holzlochner, was refused.

THE PRESIDENT: Counsel, this Document Book not only lacks document numbers but it lacks an index. Will you see that an index is prepared?

DR. WILLIE: I beg your pardon, Your Honor.

MR. HARDY: Your Honor, as far as I can make out, this Document Book III will be only one document, because one is a Prosecution exhibit that is already in evidence, and I don't see any sense in putting it in evidence again.

THE PRESIDENT: The Tribunal has just received the supplement, which contains only an affidavit by Dr. Wendt. Now, is the document, Counsel, to which you have just referred and given the number of Woltz Document No. 23, is that the deposition of Dr. Wendt taken on questions and answers? I assume so, but I desire the record to be clear.

DR. WILLE: Yes.

THE PRESIDENT: That may be admitted as Wetz Exhibit No. 22.

DR. WILLE: No. 21, Mr. President.

THE PRESIDENT: Counsel gave it NO. 22, but it should be 21.

MR. HARDY: It is Wetz Document No. 23, Exhibit No. 21.

DR. WILLE: Yes, I now submit a further document which is Wetz No. 24 and to which I shall give the Exhibit No. Wetz 22. It is a supplemental statement made by Dr. Wendt. For interests of brevity I need not explain this document any further. I shall limit myself to submitting it to the Tribunal.

THE PRESIDENT: The document will be received as Wetz Exhibit 22.

DR. WILLE: I now submit Wetz Document No. 15, which will be Wetz Exhibit No. 23. This is a statement by Dr. von Wers, a former associate of Professor Wetz.

THE PRESIDENT: The Tribunal does not have that document.

DR. WILLE: I am submitting this document together with two English translations.

MR. HARDY: Your Honor, I do not have a copy, but I have looked over the English copy before it was presented to you and I will not object and it may be admitted now if he will supply me with a copy after the recess.

THE PRESIDENT: Counsel will supply the Prosecution with a copy of this document in English after the recess and supply two more copies to the Tribunal.

Now, this Doctor, is Wetz Document No. 15?

DR. WILLE: Yes.

THE PRESIDENT: And what is the exhibit number assigned to it?

DR. WILLE: No. 23.

THE PRESIDENT: The document is received in evidence.

DR. WILLE: Mr. President, I have yet another document, but I have not yet received the English translation. I therefore ask the

Tribunal whether I can offer this document now, supplying the English text later, or whether I should postpone the submission of that document. What is is is a further supplemental statement by Dr. Wendt.

THE PRESIDENT: Submit the document to the Prosecution.

MR. HARDY: This is properly notarized, but it seems to contain a good deal of information about Dr. Alexander. I see "Dr. Alexander" throughout here in the German. I would ask what the document purports to be.

THE PRESIDENT: The presentation of that document will be delayed until English translations are available to the Prosecution and the Tribunal. When they are available, the matter may be again called to the attention of the Tribunal.

DR. WILLE: I have no further documents to offer.

THE PRESIDENT: Are there any other documents on behalf of defense counsel?

DR. FRITZ, (counsel for the defendant Rose): Mr. President, I could offer 12 further documents today, but I have found out that although the English and German copies are mimeographed they have not yet been bound into a volume. I have been promised that they would be done at 11:30. Therefore, I expect them to be here any minute now. I think it would be expedient for the Tribunal to wait until such time as the document books are actually in the courtroom.

THE PRESIDENT: Will the secretary of the Tribunal ascertain whether these document books are available?

SECRETARY: They are not yet available.

THE PRESIDENT: I understood that Dr. Flemming for the Defendant Hrugowsky had a number of documents, and we received those document books. The doctor is not present in court.

MR. HARDY: Your Honor, there are a considerable number of documents already filed in the case of Becker-Freysong. It seems to me that the attorney for Becker-Freysong could introduce some documents this afternoon. I have two supplemental document books with a rather

extensive number of documents and it might take presumably an hour on his part to put those in. I don't know whether he has others to present afterwards.

THE PRESIDENT: I wonder where these counsel are, whether they are available.

DR. FRITZ: Mr. President, perhaps you would permit me to go to the Defense Information Center and see whether these gentlemen are there, and at the same time I can find out how my document books are coming along.

THE PRESIDENT: Yes.

MR. HARDY: Your Honor, it would seem to me that we could get a recapitulation from defense counsel and find out just how many more document books they have to offer and how many are in the process of being translated.

If Your Honors please, if there is nothing to put in this afternoon, the Prosecution would be in a position to offer their Rebuttal Document Book No. I.

THE PRESIDENT: We will receive that this afternoon if defense counsel are not ready. In the meantime while awaiting the return of defense counsel from the Information Center, the court will be in recess for a few moments.

THE MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, the document books which I said would be ready this afternoon will be presented by Miss Johnson, and she said that she would not be ready to go on with it until 3:00 O'clock, so the latter part of the afternoon she can take up with rebuttal document books if necessary.

THE PRESIDENT: Counsel, Dr. Flemming for defendant Mrugowsky, the Tribunal has Supplement 1, Case 1, defendant Mrugowsky. Is that the volume from which you propose to offer further documents?

DR. FLEMING: Mr. President, I really intended to submit Document Book No. 2 first, which contains excerpts regarding experiments on human beings abroad. This Document Book No. 2 was submitted by me at an earlier date, immediately after the examination of the defendant Mrugowsky. The Tribunal at that time ruled that the decision regarding this document book be postponed until all defendants had concluded their cases.

THE PRESIDENT: Counsel, the Tribunal can now proceed to hear you offer the documents contained in your Supplement 1, Case 1. It is probable that we have your Document Book 2 in our offices, but that can be offered when we have finished with your Supplement 1.

DR. FLEMING: Yes, Your Honor.

MR. HARDY: Your Honor, may I put a few questions to counsel concerning these document books?

THE PRESIDENT: Yes.

MR. HARDY: Have you completed Document Book No. 1, all the documents in that document book?

DR. FLEMING: Yes, that is concluded.

MR. HARDY: Have you completed all the documents in Document Book 1-A?

DR. FLEMING: Yes.

MR. HARDY: And now you have left Document Book No. 2 and Supplement No. 1?

DR. FLEMING: Yes.

MR. HARDY: And that is the entire number of documents you have?

DR. FLEMING: No, there are two more documents which are still in translation.

MR. HARDY: All right, thank you.

DR. FLEMING: I shall first deal with Supplement 1, which is before the Tribunal, and I shall leave Document Book 2 until such time as the Tribunal receive it from their offices.

THE PRESIDENT: Well, counsel, we have it now. You may proceed with Document Book 2.

Counsel, and Counsel for the Prosecution, this Document Book 2, Mrugowsky, was delivered to the Tribunal some time since and has been examined. Now this document book, Counsel, if I understand, consists entirely of extracts from medical publications; is that correct?

DR. FLEMING: Yes.

THE PRESIDENT: Is Counsel for the Prosecution examining that document book?

MR. HARDY: Yes, Your Honor.

THE PRESIDENT: Well, under the ruling of the Tribunal heretofore made in other cases, these documents appear to be admissible in evidence under the rules. Now, in order to facilitate the trial and save trouble for Counsel and the Tribunal, the Tribunal will now admit all these documents in evidence without further time or argument, and read the admission into the evidence. Now the Tribunal will proceed to dictate into the record the admission of these documents.

JUDGE SEBRING: Dr. Fleming, I now have before me Mrugowsky Document Book 2 containing Mrugowsky documents Nos. 67 to 91 inclusive, and you have heard the ruling of the President that they will be admitted in evidence as Mrugowsky exhibits. What exhibit number do you assign to Mrugowsky Document No. 67?

DR. FLEMING: No. 67 will receive Exhibit No. 61.

JUDGE SEBRING: Very well. Then the Tribunal will receive in

evidence Mrugowsky Document 67 as Exhibit 61; Mrugowsky 68 as 62; Mrugowsky 68-A as Exhibit 63; Mrugowsky 68-B as Exhibit 64; Mrugowsky 68-C as 65; Mrugowsky 69 as Exhibit 66; Mrugowsky Nos. 70-71 as Exhibit 67; Mrugowsky 72 as Exhibit 68; Mrugowsky 73 as Exhibit 69; Mrugowsky 74 as Exhibit 70; Mrugowsky 75 as Exhibit 71; Mrugowsky 76 as Exhibit 72; Mrugowsky 77 as Exhibit 73; Mrugowsky 78 as Exhibit 74; Mrugowsky 79 as Exhibit 75; Mrugowsky 80 as Exhibit 76; Mrugowsky 81 as Exhibit 77; Mrugowsky 82 as Exhibit 78; Mrugowsky 83 as Exhibit 79; Mrugowsky 89 as Exhibit 80; Mrugowsky 90 as Exhibit 81; and Mrugowsky 91 as Exhibit 82.

THE PRESIDENT: This action by the Tribunal takes care of Mrugowsky Document Book No. 2 in Case 1. Counsel for the Defendant Mrugowsky may now proceed to offer the exhibits contained in Supplement 1, Mrugowsky.

DR. FLEMING: Yes. First I am going to submit Mrugowsky Document 51, which will be Exhibit 83. This is a report of the Third Congress East of the Consulting Specialists held in the Medical Academy, 24 to the 26 May, 1943. I submit it primarily because of the report contained therein by SS-Hauptsturmfuehrer Doetzer regarding the compatibility of a new tetra vaccine against typhoid, para-typhoid, and cholera. I ask the Tribunal to take notice of this document. I do not think that it is necessary to read any details from the document.

THE PRESIDENT: Proceed, counsel.

DR. FLEMING: The next document will be Document Mrugowsky No. 66. I offer it as Exhibit Mrugowsky No. 84. This is an affidavit signed by Dr. Rudolf Fussganger, from Frankfurt on the Main, and deals with the preparations Akridin and Ruthenol. Dr. Fussganger says on page 3 of the document, page 9 of the document book:

"The first clinical experiments with Preparation 3582" - that is Akridin - "were, as far as I know, carried out in the section for infectious diseases of the Frankfurt on the Main medical clinic by Professor Nohnenbruch. Three patients were involved, all of whom had

contracted typhus. After receiving Preparation 3582, the fever of all three patients sank immediately."

THE PRESIDENT: As you read these documents they will all be received in evidence unless objections are made either by counsel or the Tribunal.

DR. FLEMING: The next document will be Mrugowsky 93, which I offer as Mrugowsky Exhibit 85. This is an affidavit signed by Dr. Bruemmer, from Hoechst. Attached is a number of letters and note files coming from the works at Hoechst. Dr. Bruemmer in his affidavit certifies that these files and letters attached to the document are authentic copies of the documents from the files of the I.G. Farben Works at Hoechst. We are here concerned with the preparation Akridin and its usage. This correspondence is intended to prove that Ding received these preparations for his experimental series directly from the works at Hoechst and not from the Defendant Mrugowsky.

MR. HARDY: If it would meet with the approval of the Tribunal, while Dr. Fleming is introducing this document and its many attachments, I would like to see the original exhibits as he refers to each specific letter, and then it will expedite matters. If I have an objection I will interpose, and if I have none, as they are going along I won't bother, but then I can peruse each one of them as he is going along.

THE PRESIDENT: I do not know whether or not Dr. Fleming proposes to refer to each letter or simply to offer the series in evidence. Is the original exhibit in the courtroom?

DR. FLEMING: The originals are here, yes, Mr. President. The originals are here.

This is an affidavit, to which the notary has attached all the excerpts from the files with seal and string, so that there can really be no possibility for any confusion.

MR. HARDY: No objection, Your, Honor.

THE PRESIDENT: Counsel for the Prosecution having no objection, the document will be admitted as Mrugowsky exhibit 85.

DR. FLEMING: I then offer Document Mrugowsky 94 as Mrugowsky Exhibit 86 and Mrugowsky Document 95 as Mrugowsky Exhibit 87. These are 2 affidavits signed by Professor Flury, from Wuerzburg. Both deal with Akonitin. One deals with antidotes or antitoxins, and the other deals with the difference in the effects of Akonitin and prussic acid on the human being. These are Mrugowsky Exhibits 86 and 87.

The next will be Mrugowsky Document 96, which will become Mrugowsky Exhibit No. 88. This is an affidavit signed by Dr. Heinrich Stiege, to which are attached minutes of the Prussic Acid Meeting on 27 and 28 of January 1944. I offer this document because I shall use it in my final plea in order to prove that Mrugowsky had nothing to do with the distribution of prussic acid to the extermination camps.

The next is Mrugowsky Document 96, which will be Mrugowsky Exhibit 88.... This is an excerpt from the minutes of the Prussic Acid Meeting of 27 and 28 January 1944.

THE PRESIDENT: Counsel, I think you assigned number 88 to Document 96 -- that is the one you are now referring to ---96?

DR. FLEMING: Yes, I am now referring to Document No. 96. The next will be Mrugowsky Document 97, which I offer as Mrugowsky Exhibit No. 89. This is an excerpt from the Central Journal for Complete Hygiene, Including Bacteriology

and Immunology. This is the recognized journal for this branch of the Profession. The extract contains a report regarding whooping-cough experiments performed by the American couple MacDonald on four children with whooping cough preparations.

MR. HARDY: Your Honor, at this time I have the opportunity to peruse each of these documents. The Prosecution has no objection to any of the documents in this document book.

DR. FLEMING: The next is Mrugowsky Document No. 98, which will be Mrugowsky Exhibit No. 90. This is an extract from the Year Book of Pediatrics and Physical Education, and deals with scarlet fever experiments on children.

The next is Mrugowsky 100 and will become Mrugowsky Exhibit No. 92. This is an excerpt from the Manual of Virus Diseases.

Mrugowsky Document is offered as Mrugowsky Exhibit No. 93. This is an affidavit signed by a Dr. Kurt Feurhake, a personal friend of the Defendant Mrugowsky, who has known him ever since his childhood and here gives a character reference. I don't think it is necessary for me to quote any passages from that document. I ask the Tribunal to take notice of it.

The next document is Mrugowsky 102, which will become Mrugowsky Exhibit No. 94. This is an affidavit signed by University Professor Dr. Paul Uhlenhuth at Freiburg in Breisgau. He talks about vaccinations performed in the concentration camp Buchenwald, vaccinations which are mentioned in the so-called Ding Diary and with which the Defendant Mrugowsky is charged. I think it is not necessary for me to quote any passages from that document.

The next document Mrugowsky 92 will be Mrugowsky Exhibit 95. This is an excerpt from the seniority list of the

Elite Guard of the NSDAP, that is, the SS, and refers to the promotion of Mrugowsky to Sturmbannfuhrer on 9 November 1942. I need this excerpt in connection with the discussion of Ding's signature in the so-called diary.

MR. HARDY: Just a moment. Regarding Document 102, which is an extract from the seniority list it should be Document 92. It is No. 102. The extract from the seniority list as contained in this document book is not the promotion of Mrugowsky but the promotion of Dr. Ding, -- is that correct?

DR. FLEMING: Dr. Ding, yes. The next document in this document book is Mrugowsky Document 4a. In Document Book I I had a Document No. 4, which was an excerpt from the Reich Law Gazette and concerned part of the regulations regarding pathogenic organisms. A part of this ordinance was omitted by mistake. Therefore I have included in this document book the part of the ordinance which I need for my case. This will become Mrugowsky Exhibit 96.

THE PRESIDENT: These documents are all received in evidence and the Tribunal desires to compliment Dr. Fleming on the manner in which he has presented these documents and the manner in which they were prepared.

DR. FLEMING: I should like to reserve the right to submit the 2 volumes which I have not yet received from translation. I said yesterday that one volume contains only excerpts from the record of the Pohl Trial, and the other volume contains a number affidavits.

THE PRESIDENT: The Tribunal will endeavor to expedite the translation of these documents, and they may be offered when received.

DR. FLEMING: Thank you, Your Honor.

MR. HARDY: May it please Your Honor, I am informed that Dr. Fritz, defense counsel for Rose, has documents ready,

and I wish to inquire whether other defense counsel will have documents ready at the completion of Dr. Fritz's introduction?

THE PRESIDENT: The Tribunal has some documents prepared on behalf of the Defendant Poppendick. If his counsel could be found, they could probably be offered.

MR. HARDY: I would suggest that defense counsel, during the noon hour recess, contact other defense counsel and see if they can arrange for other defense counsel to present what documents they have this afternoon, and we could clean up a great deal of this.

THE PRESIDENT: The Tribunal was about to make that suggestion. Defense counsel will endeavor to notify other defense counsel that this afternoon we will receive documents which are ready for submission to the Tribunal. Apparently some more are just being handed up..... The Tribunal has now received document books on behalf of the Defendant Rose.

DR. SAUTER: Mr. President, during the recess I had an opportunity to speak to a number of my colleagues in order to ascertain how far they have gotten with their document books in order to tell the Tribunal about it. I do not think, except for the cases of Poppendick and Rose, that any other cases will be concluded for presentation this afternoon. I am telling you this Mr. President, because I doubt whether there will be any point in your holding an afternoon session under those circumstances. Counsel for Poppendick and Rose are finished with their document books and are ready to present them but I do not believe that any other defense counsel will be able to get their document books from the translation branch in time. I wanted to tell you that in order that you may be in a position to dispose of your afternoon according to your own desires.

THE PRESIDENT: The Tribunal appreciates Counsel's courtesy, but the Tribunal will convene at 1:30, and we will see how far we can get with these documents, and when they are entered the Prosecution will be in a position to offer some documents.

MR. HARDY: Your Honor, due to that fact, if the Prosecution goes on about 3:00 o'clock with their rebuttal document books, it is advisable that all defense counsel be present if they wish to interpose objections.

THE PRESIDENT: Defense counsel will notify their associates that if the defense.....

DR. SAUTER: 3:00 o'clock, Mr. President?

THE PRESIDENT: The Tribunal will convene at 1:30 and hear documents offered by Defendants Rose and Poppendick and any other defendants who have any documents to offer. The Prosecution will be ready to offer documents at 3:00 o'clock but the Tribunal will convene at 1:30 o'clock and will proceed.

DR. SAUTER: Yes.

THE PRESIDENT: Dr. Merkel, have you anything to say to the Tribunal?

DR. MERKEL (Counsel for the defendant Genzken): Mr. President, I only have to make a short correction on my submission of evidence yesterday. I want to withdraw the 3 documents, Documents 19-D, 19-E, and 19-F, which I submitted yesterday as Genzken Exhibits 21, 22 and 23, because I do not require these documents for my cases. I wanted to make this correction in the interest of simplification.

THE PRESIDENT: Well, Counsel, will you prepare a written application to withdraw the documents, so that the matter will be entirely a matter of record in the Office of the Secretary General, and then the Court will approve your

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DR. MERKEL: Thank you, Your Honor.

THE PRESIDENT: I file with the secretary the certificate concerning the absence of Defendant Oberheuser stating that she will not be in court today on account of illness; the Secretary will file the certificate.

The Tribunal will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 28 June 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel for the defendant Rose may proceed.

MR. HARDY: It is my understanding your Honor, that Document Book Rose Number 1 and Document Book Rose number 2, and Document Book Rose Number 3 have been completed, that is, the introduction of documents, and now he is proceeding to supplement the Document Book Rose Number 2.

THE PRESIDENT: Is that correct, counsel?

DR. FRITZ (counsel for the defendant Rose): Yes.

THE PRESIDENT: You are now proceeding with Rose Supplementary Document Book Number 2.

DR. FRITZ: The first document, namely, Document 49, which will be Rose Exhibit 48 in this supplementary volume, is an affidavit by Professor Ernst Hauck. It is not my intention to read this affidavit. It concerns itself with making available of material to another research man or an institute, and states specifically that the deliverer bears no responsibility for what the recipient does with the material. The next document is Number 50 which will be Rose Exhibit 49. This likewise is an affidavit by Professor Ernst Hauck. This concerns itself with the question of whether malaria tertiana is a dangerous disease, and it says that very frequently experiments on human beings have been carried out in malaria tertiana. Let me remark that Professor Schilling also worked in malaria tertiana in Dachau.

The next Document is Document Rose 51 which will be Exhibit 50 is an extract from "Etude Serologique de l'Infection Palustre" by Dr. Henry. Perhaps the Tribunal will recall that in the cross-examination of Dr. Rose he was shown a document in which Schilling asked that he be sent the spleen from a person who had died of malaria. This document shows that the spleens of persons who have died of malaria are used in order to terminate the reactions, not only by Schilling but by many others.

Document 52 will be Rose Exhibit 51. This is an excerpt from the

book by Dr. Rainer Mueller entitled "Medical Microbiology" which was published in 1946. The statistics contained in this excerpt show what a danger typhus is, particularly during war-time. I have to put these statistics in for the purpose of my final summation.

Document 53 will be Exhibit 52. This too is an excerpt from the book "Epidemics due to War" by Professor Schlossberger. I can say regarding this extract the same that I said for the previous extract just mentioned.

Document 54 will be Exhibit 53. This is an excerpt from the book "Epidemics Resulting from Wars" by Dr. Prinsing. This excerpt also makes manifest the hazards of typhus.

Document 55 will be Exhibit 54. This is an affidavit by Professor Doctor Otto, and there is appended to this an excerpt from the "Clinical Weekly". This document shows what the typhus situation was during the First World War.

Document 56 will be Exhibit 55. This is an excerpt from the book which was published in 1935 in London by Hans Zinsser entitled "Rats, Lice, and History." This excerpt also makes palpable the danger of typhus and points up the dangers that threaten the state through a typhus epidemic, and it also uses elucidates the importance of that danger for the future.

The next document is the document put in by the prosecution in the Flick Trial. It was put in as NE 5222, which in this trial I shall put in as Rose Document 56 and it will be exhibit 55. This is a letter --

THE PRESIDENT: Counsel, this last Exhibit number should be Exhibit 56. You already had 55.

DR. FRITZ: Correction, Exhibit 56. This is a letter from the president of the Land Labor Offices Westphalia to the District Group Anthracite Mining Ruhr of the Economic Group Mining, Essen, and is dated 3 February '42. This letter throws light on the typhus epidemic among the Russian prisoners of war in German imprisonment during the Second World War. On page 1 of this document, it states, among other things, "Typhus has until recently caused 15,000 deaths daily. In one camp in Westphalia over 900

prisoners of war died during December."

The next document is Document 57, a Report by the Society of Biology
by Blanc and Baltazard. Human being experiments are discussed here in
which control groups are used.

The next document is Document 58. This is a reprint from the "Tropical Diseases Bulletin." I shall put this in as Rose Exhibit 58. This shows that during the Second World War in Africa in a period of two and a half years three and a half million protective vaccinations were given with living typhus vaccine. It can further be seen from this this paper that five to six cases of typhus developed per thousand as a result of these vaccinations. That would mean that roughly twenty thousand people became ill with typhus as a result of these protective vaccinations.

Document 59 will be Rose Exhibit 59. This is another affidavit by Professor Otto which deals with the concept "subsequent infection". The concept, subsequent infection has played a large role in the work that Professor Hagen did, and this word "subsequent infection" frequently appears in Hagen's publications and in his correspondence, among other things, his correspondence with the defendant Rose.

In addition I have turned in an affidavit by Dr. Knorr to be translated, but it has not yet been translated and is consequently not here contained. This affidavit also deals with the concept subsequent infection. I should like to state now that later I shall wish to put this document in evidence. I have the original here and perhaps it could be given an exhibit number now.

MR. HARDY: Your Honor, I suggest that he put the document in now. It seems to have a notary's certificate on it and file the English copies with us later, and then we won't have to bother to go back to it.

THE PRESIDENT: Very well, that procedure may be followed.

DR. FRITZ: This then, will be Rose Exhibit 60, and finally, Mr. President, I have three French papers here, two papers by Sergeant and his associates and one paper by Tersa and Wassel. In these papers typhus infection of non-vaccinated persons is described. I have not yet been in a position to turn these over to the translation department. Professor Rose has asked me also to put these papers in evidence.

THE PRESIDENT: During the noon recess I consulted with the translation department. They will do the very best they can, but there are limits, I fear, to what they can do. They promised to expedite the documents and send them in to the Tribunal at the earliest possible moment, but documents that have not yet been turned over to the translators may possibly not be translated in time to be used.

DR. FRITZ: Perhaps the effort could be made, however, if I give the documents to the translation department by Monday. Then if they are translated in time I can put them in.

THE PRESIDENT: Well, I would certainly advise that they be given to the translation department this afternoon. Do you have the documents there in the original French?

DR. FRITZ: Yes.

THE PRESIDENT: Pass them up to the Tribunal. Let me look at them.

DR. FRITZ: Not the entirety of these articles is to be copied and translated, but only the parts marked, only excerpts in other words, the parts that are marked in pencil.

THE PRESIDENT: I understand. I note the markings. I think that these documents could not be admitted and numbered and the translations furnished, the English translations furnished when they are made. You might show these to counsel for the prosecution. Have you any objection, Mr. Hardy?

MR. HARDY: No, I have no objection, Your Honor.

THE PRESIDENT: They are from scientific magazines, medical magazines. I suggest that they be numbered. The furnishing of the English translations would be a matter that could be accomplished as soon as the translator finishes them.

DR. FRITZ: Then the work by Tersa and Wassel will be Rose document 61, Exhibit Number 61. The first work by Sergeant and associates will be Rose document and exhibit 62, and the third, the other publication by Sergeant, will be Rose document and exhibit 63.

THE PRESIDENT: Counsel, of course, understands that the translation of these documents is only the first step; that they must then be mimeographed and furnished. The translation is only one phase of the process.

DR. FRITZ: I am quite aware of the difficulties involved, your Honor.

THE PRESIDENT: The Tribunal now understands that this completes finally Rose's documents?

DR. FRITZ: That is so.

MR. HARDY: Your Honor, before we proceed with the introduction of documents on behalf of the defendant Poppendick, the prosecution wishes to announce that they will call two witnesses the first part of next week and, if permissible with the Tribunal, we will be in a position to call them on Monday as rebuttal witnesses. One is a man named Broers and the other a witness named Nales. The prosecution will file the notices conforming to the regulations of the Tribunal. These two witnesses will testify as to the activities of Hagen at Natzweiler.

THE PRESIDENT: Very well, those witnesses may be presented Monday. Any further witnesses desired to be called should be presented at the earliest possible moment, because that would, to some extent, compensate the delay for the production of documents.

MR. HARDY: Other than those two witnesses, your Honor, it is possible that the prosecution may call one other. However, that is merely possible at this point. It may develop that those two witnesses will be the last witnesses called on behalf of the prosecution for rebuttal.

THE PRESIDENT: Counsel for the defendant Poppendick.

DR. DUERR: First of all I should like to give the Tribunal four English copies of supplemental volumes 1, 2 and 3. As first document I should like to put in HPO 16, an affidavit by Dr. Blaschke. This will be Poppendick Exhibit 15. Here the development and structure of the office Reichs Physician SS is described and Poppendick's position

in it is also described. I should like to read a few passages. At first the witness concerns himself with the structure and organization of the office Reichs Physician SS and then he, on page two, first paragraph, discusses the reorganization in 1943.

"In 1943 Himmler promised to let him have only a few departments, among other things the pharmaceutical service and hygiene. At the same time Grawitz obtained from Himmler the authorization for the establishment of some subdivisional offices within his formerly unorganized staff. In this way I too became an office chief as Chief Dental Surgeon. My entire staff consisted of myself and one dentist acting as my assistant; I had to share a clerk with Dr. Poppendick. I myself was often absent as I had my private dental practice."

Then I should like to skip a paragraph and read the next paragraph.

"Grawitz himself had an adjutant and a female secretary at his personal disposal. This secretary, who was in charge of Dr. Grawitz' ante-room, was the most important person in the building. She gave information, acted as receptionist and arranged appointments with Dr. Grawitz. She had worked for him since 1939, and he had complete confidence in her. In her room there was also Dr. Grawitz's strong-box, to which, however, only he had the key. She also handled the mail too, dictation, and did all the filing. The amount of incoming mail was very small. Grawitz often complained that he had so little to do.

"Since 1943 there was also an office called Personal Office but it existed only on paper, and never played any real part. It could not actually materialize, as Grawitz himself and with his secretary attended to everything. This office was probably only supposed to keep up appearances because as previously, discussions took place always with Grawitz in strict privacy even if they were quite unimportant which was almost always the case with mine.

"At any rate Dr. Poppendick was never present at my discussions with Grawitz. So far as I know, he was, in fact, mainly in charge of

the library."

THE PRESIDENT: Counsel, please proceed more slowly. I fear that the reporters are rather in difficulties.

INTERPRETER BROWN: Your Honor, the reporters have the document before them.

THE PRESIDENT: Proceed, but a little more slowly at that. The Tribunal might be in difficulties following it.

DR. DUERR: "His most important activity, however, took place outside the building. He was senior physician in the Race and Colonization Office. He was not a very conspicuous person, was very quiet, and worked unobtrusively in his room. I always received the documents I had to work on straight from Grawitz, they were also marked only by him, and in the same way I handed in my replies to the Secretary direct, and she passed them on to Grawitz. When I had to get a letter direct from Grawitz, he had me called by his secretary and took the document from his briefcase and discussed it with me. Grawitz thought he could do everything better and, therefore, he wanted to do everything himself. The reason for this was probably to be found in his most predominant characteristic: a burning ambition to get on in life.

"He could get on only through Himmler and, as he was not on very good terms with him, he apparently tried to impress him by his officiousness. When in 1944, following the airraids on the city, almost all offices were removed from Berlin, he retained his office in Berlin despite the fact that his work, already insignificant, now shrank to almost nothing. I suppose he wanted to appear to Himmler as the courageous undaunted man. He was as an individual exactly the opposite -- inwardly hesitating, always with an eye to his superiors, and with an almost grotesque fear of provoking the displeasure of Himmler. As I concluded from hints given by Grawitz, he hoped to achieve through Himmler the position of chief of the whole medical service."

This affidavit is correctly certified.

Now comes HPO 17, Poppendick Exhibit 16.

THE PRESIDENT: Counsel, I do not know what this exhibit is but it is scarcely necessary to read into the record anything save the important portion of these affidavits in your brief it would be your duty to call to the attention of the Tribunal, the portions of the affidavit upon which you particularly rely.

DR. DUNN: This affidavit is a cross-affidavit from Dr. Gerhard Schiedlausky in reply to the affidavit which the prosecution put in with the document NO-508. I shall not read it. I should like to draw the attention of the Tribunal beginning with the paragraph beginning with the words, "From my own observation," which is the most important passage of this affidavit.

This next document is HPO 18 which will Exhibit 17. This also is an affidavit by Fritz Schwalm. This affidavit deals in detail with Poppendick's activities in the Race and Colonization Main Office but I shall read nothing from it.

The next three documents, HPO 19, 20 and 21, are excerpts from the transcript of Case IV which have been certified by the Secretary General and concern themselves with the testimony of Kogon. I do not believe that

it is necessary to give these documents a special exhibit number -- or am I wrong?

THE PRESIDENT: They should be numbered in order that reference could be made to them in your brief or in the brief of opposing counsel.

DR. DUER: Then HPO 19 will be Exhibit 16, HPO 20 will be 19, and HPO 21 will be 20. I shall just forgo any reading of any portion of these documents. Supplemental volume 2 consists of one single document HPO 22 which be Exhibit 21. This is an affidavit by August Meine.

In the first part of this affidavit the affiant Meine makes statements about Documents 1639A, 1639 and 214, all of which were put in by the prosecution. I should like to point out to the Tribunal, the summary at the end of this section. In the second part of this affidavit, the witness speaks of Professor Clauberg's activities as approver of application for marriage licenses and in the third section we hear something from Meine regarding the procedure in certifying copies in the SS, copies of documents.

I have annexed to this affidavit of Meine's a photostatic copy of Document NO-214 for the convenience of the Tribunal. It is here in the German original and you can see the handwriting of this document to which the witness Meine refers in his affidavit. In the English translation that the Tribunal has of this document these individual handwritten remarks are not noted. That is why I have made this photostatic copy of the original available to the Tribunal so that they can more correctly evaluate Meine's affidavit.

As last document I put in HPO 23, Exhibit 22, an affidavit by Professor von Kennel. This is a statement made by the prosecution during the examination of Poppendick when the prosecutor accused the witness von Kennel of lying. I do not intend to read this affidavit since it is very long but I should like to draw the Tribunal's attention to the first two paragraphs.

That will conclude the case for Poppendick; but I should like to

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point out the last document in Document Book No. 2 here. This is Document NO-1300, which has already been put in by the prosecution. There was an error in translation which distorted the meaning of this document in its English translation. Consequently, after having communicated in writing with the prosecution and after receiving the prosecution's approval of this alteration, I should like to put in this document NO-1300 in a correct translation.

THE PRESIDENT: Can you furnish the Tribunal with the prosecution's exhibit number of this document?

DR. DUERR: I don't know what the number is at the moment.

MR. HARDY: I am afraid I have missed the significance of the change that Dr. Duerr wishes to bring to the attention of the Tribunal, I believe. Will you kindly repeat that again? I can't understand which words he is referring to.

THE PRESIDENT: Counsel did not state to the Tribunal the changes which have been made. I understood him simply to say that the change had been approved by the prosecution. Will counsel state the change in translation which appears in this document?

DR. DUERR: This is a change in the second paragraph, the paragraph which begins: "SS Standartenfuehrer--"

MR. HARDY: I see Mr. McHaney's signature, your Honor. Apparently, it is all in order. I hadn't been familiar with particular document and the change.

THE PRESIDENT: Have you the prosecution's exhibit number of this document?

DR. DUERR: Exhibit 289, your Honor. Should this document be given a special exhibit number by me or is it all right to leave it as is?

MR. HARDY: Your Honor, as Mr. McHaney points out in his memorandum to the office of the Secretary General dated 17 May 1947 in connection with this document -- he stated: "I return herewith the file requested for correction of transcript. Prosecution has no objection to the changes

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requested by Dr. Duerr. They are for the most part insignificant mistakes and it is considered unnecessary to return translations of the affected documents"; so if it is possible the defense counsel could at this time read in the change he wishes to make in the original and indicate the change and then there won't be any necessity of rerunning it or giving it a new exhibit number.

THE PRESIDENT: I think this document should bear the Poppendick document's exhibit number so it may be identified and referred to. What number would you give this document?

DR. DUERR: 23.

MR. HARDY: I wish --

THE PRESIDENT: 20 or 23?

DR. DUERR: Yes, 23.

MR. HARDY: Your Honor, the changes are merely --

THE PRESIDENT: Just a moment, until we straighten out this matter of the documents. I have the last number 22. Number 23 appears to be correct.

MR. HARDY: Your Honor, then the prosecution, even though they have agreed to this change, will not rectify their briefs and refer to the new page number in the record where this document is contained.

THE PRESIDENT: The burden will rest on the counsel for defendant Poppendick to call attention to that matter in his brief.

MR. HARDY: Your Honor, the changes I submitted are merely as follows in the original documents as presented by the prosecution. The second paragraph states, "SS Standartenfuhrer Dr. Lolling informed me" and the rest of the sentence; and the change by the defense is, "SS Standartenfuhrer Dr. Lolling gives the information." That is the change.

THE PRESIDENT: Is that the only change?

MR. HARDY: That is the only change.

DR. DUERR: I can explain why I consider this change important. This document is signed by SS-Standartenfuehrer Dr. Lolling in the German text, and it reads, "As SS-Standartenfuehrer Dr. Lolling says," and not, "As SS-Standartenfuehrer Dr. Lolling tells me". In order not to create the impression that there was regular correspondence between Dr. Lolling and the defendant Poppendick, I should like to have this change incorporated in the document.

THE PRESIDENT: The document is admitted in evidence as Exhibit No. 23. Of course, as I said a moment ago, counsel for the defendant Poppendick in his brief may call attention in it to this change, and say exactly what significance he attaches to the change.

DR. DUERR: This concludes my defense of the defendant Poppendick.

THE PRESIDENT: We will note that counsel for the defendant Poppendick has closed his defendant's case.

MR. HARDY: If no other defense counsel has documents to offer at this time, Your Honor, Dr. Vorwerk has one affidavit to offer, and he has another affidavit which has not been translated in toto; he has two affidavits, and he may offer one now I presume.

DR. VORWERK: The affidavit that I can not now put in is something that followed from the examination of the expert Dr. Ivy. Before Professor Ivy appeared here this problem had not arisen, and that explains why the affidavit is being put in so late. That is the reason why the document is not as yet ready, but I hope shortly it will be. It will be a very short affidavit.

MR. HARDY: Your Honor, the Prosecution questions the admissibility of an affidavit which affects the testimony of Prosecution's rebuttal witness. Dr. Ivy was a rebuttal witness of the Prosecution. Now, can the case be re-opened by an affidavit, and a document be submitted to refute our rebuttal witnesses?

THE PRESIDENT: Yes, it can, if the rebuttal witness went any further than to testify concerning witnesses of the defendants, which

Dr. Ivy in certain cases did.

MR. HARDY: I am not aware of that, Your Honor.

THE PRESIDENT: The Tribunal will be disposed to receive evidence concerning the testimony of rebuttal witnesses, which won't go farther than to contradict or explain away the evidence concerning the particular defendant; otherwise, then it becomes new evidence. Dr. Ivy extended his testimony over quite a considerable ground of territory.

MR. HARDY: Does this affidavit go over this extended territory?

THE PRESIDENT: I don't know. We have not seen it.

DR. VORWERK: The affidavit concerns a psychological question.

THE PRESIDENT: The Tribunal has not limited rebuttal witnesses either for the Prosecution, or for the defense, and some liberty of action must be accorded for that reason.

DR. VORWERK: I shall put in evidence for the defendant's case an affidavit of Professor Werner Knothe, M.D., dated 22 March 1947. Only this morning did I receive the English translation and mimeograph copy of this affidavit, and I don't know yet whether the Tribunal has copies. If not, I shall make copies available. This is Romberg's Document No. 6, and will be Exhibit No. 6.

THE PRESIDENT: Just a minute.

DR. VORWERK: This is the same re-statement that I should like to read into the record. Professor Knothe says: "On the occasion of lectures which he held at Jueterbog for flying personnel physicians, Herr Hans Wolfgang Romberg, M.D., lectured about his experiences while working on flying accidents and incidents, seen from a technical, medical and aeronautical point of view. The standard of his lectures were scientifically irreproachable. I remember - it might have been in 1943 - that Doctor Romberg - mentioned in a private conversation, when we came to speak of Doctor Rascher, that he considered him a pathological liar, and besides that, an inferior individual." This is all the new evidence I have to put in in Romberg's defense of the moment.

If we receive permission of the Tribunal, I shall put in one further affidavit hereafter.

THE PRESIDENT: This document is admitted as "omberg's Exhibit No. 6.

MR. HARDY: Your Honor, as I said before, we will be ready at three o'clock to run through the Prosecution's rebuttal Document Book No. 1, and if I can speed the process up to quarter to three, I shall endeavor to do so. Are there any other defense documents to be put in at this time?

THE PRESIDENT: Those documents have all been distributed to the Tribunal?

MR. HARDY: The document books, yes, they were filed as a matter of course a week ago, I believe. Your Honor, is it possible that some of the defendants are not going to introduce supplements to a document?

THE PRESIDENT: The Tribunal has no information on that matter. Is there any defense counsel who represents a defendant who has not as yet introduced any supplemental documents, and does not expect to offer any? No one volunteers.

MR. HARDY: Then, Your Honor, on Monday it will be possible for us to bring in two Prosecution rebuttal witnesses, and, then the defense counsel will be able to have their supplemental evidence ready by Monday afternoon, and Tuesday morning.

THE PRESIDENT: You may call in Monday whatever witnesses that you want and we will dispose of them as early as possible. There is nothing left but the translation and mimeographing of the documents, so you will be ready with your witnesses Monday morning, if ready. The Tribunal will now be in recess.

(recess)

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THE MARSHAL: The Tribunal is again in session.

MISS JOHNSON: Your Honors, I would like now to present Prosecution Document Book No. 18, containing the rebuttal documents on behalf of the Prosecution.

THE PRESIDENT: Counsel may proceed.

MISS JOHNSON: The first document is NO-3648, which will be offered as Prosecution's Exhibit 529. This is the sworn statement of one Otto Bichenbach, made before a judge of a French Military Tribunal at Strasbourg where the affiant is held in detention and charged with war crimes. The statement contains reference to phosgene experiments and implicates the Defendant Karl Brandt.

The next document is NO-3648, which is the deposition of Fritz Suhren, and will be offered as Exhibit 530.

DR. SEIDL (For Defendants Gebhardt and Fischer): Mr. President, I object to the admission of Document NO-3648. As a reason for my objection I can state the following: firstly, this statement, which is designated as an affidavit in the index bears no signature. During the recess I have looked at the original document, and I gained the impression on the basis of the German form and the German style, as well as on the basis of the entire matter, that this affidavit was to have been signed by Suhren, but for some reason was not signed by him, perhaps because he refused to sign such an affidavit. From the remarks at the end we can see that the precise date was to be inserted, for it says merely, "April 1946". The date on which the affidavit was to be signed apparently was to be inserted at a later time.

Secondly, I found out that the affidavit was not signed

by Captain Ellis, in front of whom it was taken down. The only signature under the document originates from Major Mant who merely certifies the authenticity of the copy. Thirdly, the Prosecution has had this affidavit in their possession for longer than a year. The Defendant Gebhardt has been heard on that affidavit on two occasions before the beginning of the trial. At first it was apparently intended to use him as an incriminating witness against Suhren. The first interrogation took place Paderborn in September 1946, and the second interrogation in November 1946. The Prosecution has had ample opportunity to present this affidavit during their case. At the latest time they had an opportunity to put this affidavit to the Defendant Gebhardt in his cross-examination. On both of those occasions the Prosecution has not done so. Therefore, the defendant did not have an opportunity to define his attitude directly as regards this affidavit. For these above mentioned reasons I am asking you to reject the admission of the affidavit. In case, however, you should admit the affidavit, I ask to reserve the right that I bring counter-proof to the Tribunal.

THE PRESIDENT: Is the original affidavit available for the Court? The jurat attached to the affidavit does not read "Subscribed and sworn to," but simply says, "Sworn to by the witness, Fritz Suhren, voluntarily, at Paderborn on blank April 1946, before me, Captain Duncan Ellis." Can we hear from the Prosecution?

MISS JOHNSON: I think, your Honor, that it is just as you say. It does not purport to bear any signature of Fritz Suhren; apparently it was an oral statement made before Captain Ellis. He certifies it has been made before him during the month of April 1946.

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Undoubtedly the original contained the signature of Captain Ellis, and that has been certified to by Major Mant.

THE PRESIDENT: The Doctor's objection will be overruled, and the Document admitted, but the Tribunal will consider the matter of allowing counsel for Defendant Gebhardt to offer some evidence by way of sur-rebuttal in meeting this evidence. If counsel desires to offer such evidence he should apply to the Tribunal and say what evidence he desires to offer in refutation of any statements which are made in this document.

MISS JOHNSON: The next four documents contained in the document book are NO-3070, which will be offered as 531; NO-3071, which will be offered as 532; NO-3072, which will be offered as Exhibit 533; and NO-3073, which will be offered as Exhibit 534. These are decrees of Hitler concerning the pardon right of himself and of the Governor-General of Occupied Poland. They are offered at this time, in connection with the status of the Polish girls, the criminal status of the Polish girls whom Defendant Gebhardt performed some experiments upon.

The next document is NO---

THE PRESIDENT: Just a moment, Counsel, until I complete the record.

MISS JOHNSON: I am sorry.

THE PRESIDENT: Counsel may proceed.

MISS JOHNSON: I turn now to the document on Page 19 of the document book. NO-3853, which will be offered as Prosecution's Exhibit 535. This is an affidavit of a handwriting expert who certified as to the genuineness of the signatures of Ding and Schuler, and arrives at the opinion they are the signature of one and the same person. The Prosecution

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has contended that the signature "Schuler" is an alias for the name "Ding".

The next document is on Page 22 of the document book. It is NO-3680 which is offered as Exhibit 536. This is an extract from the transcript of Military Tribunal II of 21 April 1947. It is the testimony of Eugen Kogon who also appeared in this court as a witness, and it clarifies certain matters concerning the typhus experiments and the poison-bullet experiments conducted at Buchenwald concentration camp.

The next document is on page 24 of the document book. It is NO-1320. It will be offered as Prosecution Exhibit 537. It is the file note of one Dr. Haubold, who is from the Foreign Department of the Reich Chamber of Physicians. The Court will recall that the defendant Blome was the deputy leader of the Reich Chamber of Physicians. In this note Grawitz as chief of staff has reported and recommended a certain method of typhus vaccine production, namely, rabbit lung production.

DR. SAUTER (Counsel for the defendant Blome): Mr. President, with reference to this Document No. 1320, a letter by Professor Gildemeister to the Reich Minister of the Interior with a report of the Foreign Department of the Reich Chamber of Physicians, I ask that the prosecution state for what purpose this document is being submitted. Throughout the months of this trial we heard nothing about any Foreign Department of the Reich Chamber of Physicians. We are hearing for the first time today that any such department existed. For that reason, in my opinion, the prosecution has to make a statement in what way the defendant Blome is to be incriminated on the strength of this document. Does the prosecution try to maintain that this Foreign Department of the Reich Chamber of Physicians was headed by the defendant Blome? Or does the prosecution maintain that the defendant Dr. Blome is in any way responsible for this Foreign Branch of the Reich Chamber of Physicians? Do they think that he was in any way in a position to dispose of the actions of this department? If I get a statement on this matter from the prosecution, I shall be in a position to submit counter-proof. It will be expedient, however, if the prosecution at first states what exactly they are trying to prove with reference to the defendant Blome.

MISS JOHNSON: Our theory is that Blome, as deputy leader of the Reich Chamber of Physicians, was responsible by reason of that position for the activities that were participated in by all of the various departments of the Reich Chamber of Physicians, and one of those departments was the Foreign Department. And as Dr. Sauter will see from NO-1322, on page 26 of the document book, this Dr. Haubold was clearly con-

nected with the Foreign Department of the Reich Chamber of Physicians. In other words, Dr. Blome is implicated by reason of his position by the responsibility of the Reich Chamber of Physicians which obviously had some connection with the typhus experiments.

DR. SAUTER: Mr. President, I can make the following statement at this time. Blome had nothing whatsoever to do with the Foreign Department of the Reich Chamber of Physicians. On the contrary, orders had been issued that he was under no circumstances allowed to exert any influence on the activities of the Foreign Department. I shall be able to prove that by submitting an affidavit written by the defendant Blome and perhaps even additional proof.

THE PRESIDENT: The exhibit will be received in evidence subject to the right of defense counsel to file an affidavit on the part of the defendant Blome and to make application to the Tribunal for permission to introduce further evidence if he desires to do so.

MISS JOHNSON: Referring again to NO-1320, the file note of Dr. Haubold of the Foreign Department of the Reich Chamber of Physicians, it will be noted that a report by the Chief of Staff to Dr. Grawitz has been made to this Foreign Department to the effect that rabbit lung typhus vaccine has been tested on concentration camp inmates at some date prior to 11 December 1942.

The next document, page 25 of the document book, is related to the same subject. This is NO-1322 which will be offered as Exhibit 538. This document is an opinion of Gildemeister from the Robert Koch Institute, concerning the assertions of Dr. Haubold as to the effectiveness of the rabbit lung typhus vaccine. It will be seen from the first paragraph that Dr. Ding has carried out experiments to determine the effectiveness of this vaccine, and those experiments were carried out with the defendant Krugowsky and under the defendant Krugowsky's supervision. The second page of the same document, page 26 of the document book, is a letter from the Reich Minister of Interior to the Foreign Department of the Reich Chamber of Physicians notifying that organization of the opinion of

Dr. Gildemeister. The Court will also note that at the bottom of page 26 that the Reich Chief for Public Health has been informed of the contents of this letter. That again implicates the defendant Blome.

Turning to the next document, page 28, which is NO-3671, and which is offered as Prosecution Exhibit 359. We have here a letter dated November 18, 1943, from Rascher to Pfannenstiel where he reports that the deputy Reich Medical Chief, Dr. Blome, with whom Rascher has been working, has been making certain efforts in connection with the Rascher habilitation. That is, as you will recall, the efforts of Rascher to obtain a university professorship. It concerns the fact that the report has been submitted which is top secret. Rascher also makes mention of his desire to perform further high altitude experiments and states that in that connection he will contact the defendant Sievers in his capacity, apparently, as chief of the Business Managing Board - the prosecution has up to this time always contended that he was deputy chief of this board - of the Reich Research Council. This again refers to Sievers' activities in connection with obtaining materials for the human experiments. Rascher intends to request Sievers to supply a low pressure chamber for high altitude experiments.

The next document, on page 29 of the document book, is NO-3847. This is offered as Exhibit 540. This document and the next document are related in subject matter. The next document, on page 34 of the document book, is Document Number 2903-PS, and is offered as Exhibit 541.

DR. SAUTER (Counsel for the defendant Blome): Here again with reference to these two documents, NO-3847 and NO-2903, I have to ask the prosecution to tell us what they intend to prove against Dr. Blome by submitting these two documents and what incrimination is to be deduced from these two documents. Unless such a clarification is rendered by the prosecution, the purpose cannot be understood as to why these two documents have been submitted.

MISS JOHNSON: The first document, Exhibit 540, is an excerpt from the IMT judgment concerning the criminality of the Leadership Corps of

the Nazi Party. The prosecution has not here charged the defendant Blome, and does not in any way contend that the defendant Blome is here criminally liable for his membership in the Leadership Corps of the Nazi Party. The finding of the International Military Tribunal establishes that persons holding certain prominent party offices are members of a criminal organization. The chart which is offered in connection with Prosecution Exhibit 541 shows that the defendant Blome as deputy to the Reich Public Health Leader Conti was Hauptaemter and was thus a person of some prominence in the Nazi Party, that he came within those groups which were defined as criminal within the Leadership Corps. In other words, the prosecution offers this primarily for the purpose of establishing the prominence of the defendant Blome.

DR. SAUTER: I should like once more to get clarification on one point.

If I understood the translation correctly, the Prosecution by submitting these two documents does not intend to maintain or prove that Bloem was a member of the Corps of Political Leaders, that is, a member of a criminal organization, but merely intends to prove that Bloem held a prominent position within the Party. Did I understand you correctly?

MISS JOHNSON: Yes.

DR. SAUTER: Thank you, in that case I have no further questions in that connection.

MISS JOHNSON: I believe, Your Honor, I have pointed out sufficiently the place of the defendant Bloem in the chart of the Leadership Corps to make it clear to you that his position in the Leadership Corps, and as a prominent member of the Nazi Party, as I said it, put him in a position of great influence and prominence.

We turn next to page 36 of the Document Book which is Document NO-3837 and which is offered as Prosecution Exhibit 542. This is a list of Dr. Hagen's expenditures which were charged to the Wehrmacht in connection with research on yellow fever and typhus during the period between 21 February 1942 and 13 November 1944. On the English translation of this document the word "Wehrmacht" appears at the top — should appear, I mean to say, at the top of the page, above the words "Research Test Yellow Fever—Typhus. The word "Wehrmacht" does appear on the original. (To the marshal) Will you exhibit that to the Court, please, so that they can correct their copies?

The next document is on page 49 of the document book, is N)-944, is offered as Exhibit 543, is the service record of the defendant Poppendick.

DR. DULFER (Counsel for the defendant Poppendick): Before raising an objection to this document I should like to ask the Prosecution for what purpose this and the following document are being submitted?

MISS JOHNSON: Primarily it is proof of the membership in the SS of the defendant Poppendick; also to substantiate our contention as seen from Item (of Poppendick's office in the staff of Reich Physician Grawitz, and from Item 14, his role in the office of Grawitz. It has to do with his membership in a criminal organization, and also activities in the office of Grawitz.

DR. DUERR: I object to the submission of that document. The Prosecution has submitted an affidavit with reference to these points. The defendant was already in the witness stand and was examined on all the points. Nothing new is being shown by that document, and I don't think it is necessary to submit a rebuttal document now which for some months has already been in the hands of the Prosecution.

THE PRESIDENT: Objection is overruled. Document will be received in evidence. If the defendant Poppendick claims that in his statement the document is incorrect, he may file an affidavit stating his view of the matter.

MISS JOHNSON: The next document, on page 51 of the document book is NO-1120, is offered as Prosecution Exhibit 544. This document also relates to the defendant Poppendick. This is an evaluation of the services of the defendant Poppendick by his superior, Reich Physician Grawitz. It also makes mention of the fact that Poppendick has participated in the activities of the Race and Settlement Office.

DR. DUERR: I do not object to the submission of this document, but I beg to be allowed to reserve the right to submit new evidence as counter proof.

THE PRESIDENT: Counsel may file an affidavit by defendant Poppendick or any other person stating this affidavit is incorrect, if he knows that it is. If any further evidence is desired, Counsel should make application to the Tribunal for permission to introduce such further evidence.

MR. HARDY: Your Honor, in the case of rebuttal evidence, would your Honors kindly instruct Prosecution, as well as the Defense, what po-

sition will be taken with reference to rebuttal evidence, and to what extent the Defense can then in turn bring in evidence to refute rebuttal evidence.

THE PRESIDENT: Well, when evidence is purely rebuttal evidence it would be unlikely that new evidence would be allowed to refute that; that would have to be considered. There might be a special case where it would be allowed. As regards these last few affidavits, whether or not these are strictly rebuttal evidence, the Tribunal is not advised. I don't remember whether Poppendick denied his membership as stated in these matters. It may be and may not be purely rebuttal evidence.

MISS JOHNSON: I think they may be cumulative, Your Honor.

THE PRESIDENT: That was my impression, that they were purely cumulative. But the fact is that the prosecution should really not introduce merely cumulative evidence in rebuttal. The Court stated to Defense Counsel that they could file a further affidavit in this connection, if he desired.

The objection is overruled. The evidence is to be admitted.

MISS JOHNSON: We turn next to page 53 of the document book, NO-3269 which will be offered as Prosecution exhibit 545. This document dated 29 April, 1943, addressed to Poppendick, merely establishes the fact that Poppendick had certain administrative duties in the Race and Settlement Office, a matter which has been the subject of the testimony of Poppendick, to some extent.

I come to the next document which is on page 54 of the document book. I would like to hand the Tribunal and Defense Counsel a covering affidavit made by the author of the document, on page 54. This is N)-3347, which is offered as Exhibit 545.

THE PRESIDENT: Counsel, you already have an exhibit 545.

MISS JOHNSON: I have?

THE PRESIDENT: Unless I am mistaken.

MISS JOHNSON: I beg your pardon, Your Honor.

NO-3347 is offered as Prosecution Exhibit 546. I believe the covering affidavit will have to be distributed.

DR. HOFFMANN (Counsel for the defendant Pokorny): The document which was handed to me by the Prosecution about two days ago contained only the Document 3347. At the moment I have only received the accompanying affidavit. I wanted to point out that the 24-hour period when distributing documents has not been abided by, and for that reason object in principle against the evaluation of that affidavit under those circumstances.

With reference to the opinion itself I should like to ask you to give me an opportunity to define my attitude towards this eighteen page long opinion, which was already available to the Prosecution on the 25th of April 1946, at a later date by submitting a counter-opinion.

MR. HARDY: Your Honor, during the course of the examination of the defendant Pokorny it was brought out that expert testimony as to the efficacy of caladium sequinum was at issue. At that time the Tribunal asked the defendant Pokorny to write an affidavit in lieu of his technical testimony. If you will recall, I at that time told the Tribunal that we would submit expert testimony regarding the efficacy of caladium sequinum as set forth in the reports of Madaus and Koch. These reports were exhaustively studied by Dr. Scheiffahrt at the University of Erlangen. He has written an expert opinion. The date of the opinion is 14 April, and the Prosecution has held it exclusively for the purpose of rebuttal evidence. In as much as Dr. ----- has not executed a jurat and the particular expert opinion has not been certified as of 26 June 1947, Dr. Scheiffahrt was called here. I had a jurat executed, and that is the new sheet that is attached to the document. The document -- the opinion was based on the works of Madaus and, of course, Madaus and Koch -- and, of course Koch was here as a witness and testified as an expert. This is the Prosecution's Rebuttal to his testimony, and I

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am sure that those document books have been in the hands of the Defense Information Center longer than 24 hours. If not, the Prosecution asks for a waiver of that time. I don't see that anything is necessary for further study on the part of the Defense Counsel. He has had his expert on the stand; his expert has testified explicitly on that situation of many of the facts set forth in this expert opinion. And he tells me that the defendant Pokorny will do likewise.

THE PRESIDENT: This statement appears to be proper rebuttal evidence. Of course, there is the affidavit, Document No. 3347. Is that a supplement to 3347? In the book?

MISS JOHNSON: Yes, Your Honor, the affiant in the affidavit, Friedrich Schoeffarth, is the person who wrote this treatise which is on page 54 of the book and he signed it on page 71 of the document book.

THE PRESIDENT: Well, the objection is overruled. This exhibit will be admitted.

DR. HOFFMANN: Will I have the possibility to submit counter rebuttal against this affidavit?

THE PRESIDENT: Well, this is proper rebuttal evidence. This is in direct contradiction of evidence that was introduced. Prosecution on rebuttal is entitled to contradict that evidence. Nothing new is brought in, as I understand it, than that in the testimony of Pokorny. That did not call for any new evidence on your part as I understand it. If Pokorny wants to prepare another affidavit in connection with the statement here he may do so if he moves promptly.

MR. HARDY: If Your Honors please, the expert opinion is based on the evidence that has been submitted by Pokorny. I had also intended to have evidence submitted on which the affidavit is based. In as much as all the pamphlets and material are available and Pokorny's testimony it is unnecessary to submit the same material so we will just submit the affidavit and it is well referenced to the material used in Pokorny's presentation.

MISS JOHNSON: Turning now to page 72 of the Document Book we have NO 3629 which is offered as Prosecution Exhibit 547. This is a letter from the defendant Sievers to Professor Hirth.

DR. WEISBERGER: Mr. President, Dr. Weisberger, counsel for the defendant Sievers. For the moment I have no objection but I would ask Prosecution to give me the original document in order to ascertain the date it bears.

MISS JOHNSON: This letter relates

DR. WEISBERGER: I am asking this question because the copy which

was submitted to defense bears no date. The photostatic copy here does bear a date but it appears doubly and in my opinion cannot be identified easily. I have no formal objection to make but I beg to reserve the right to revert to this document at a later date.

THE PRESIDENT: There won't be very many later dates. What is it you desire to discuss concerning the document? You say that the micrograph bears two dates. There is only one date 3 January 1942 on the document before me.

MISS JOHNSON: We contend that that is the proper date although it has been apparently typed over. It may be a carbon copy and the carbon has slipped and made an impression of the two dates.

THE PRESIDENT: cursory examination of the documents indicates that in any event the letter was written in January 1942. If there is any question in counsel's mind an enlarged photograph could be taken of that date if it is considered important. An enlargement would probably show exactly what that is. The document will be admitted but if defense counsel desires identification of that date an enlarged photograph can be taken.

MISS JOHNSON: NO 3629, Prosecution Exhibit 547, the document under discussion, signed by Sievers addressed to Hirth relates the preliminary activities of the defendant Sievers in connection with services of the addressee Hirth at the Ahnenerbe Institute. You will see that the reports of Hirth passed through Sievers to Himmler. The third paragraph indicates Sievers knowledge that experiments on human beings are approved by Himmler and are anticipated. The fourth paragraph indicates the political atmosphere of the original Ahnenerbe in which Sievers was Reich business manager.

Coming to the next document on page 73 which is NO-3675 which will be offered as Prosecution Exhibit 548. This is a letter of 22 September 1942 which was from a manufacturing company which manufactured the instrument called the electrocardiograph. The writer refers to the fact that Sievers has advised him that an electrocardiograph has been used

in important scientific experiments carried out at the Research Institute for Applied Military Science in Munich. That would incriminate the defendant Woltz and all other defendants involved in freezing experiments.

On page 74 Sievers has added a note to this letter and forwarded it apparently to Dr. Rascher. Sievers here refers to the activities in connection with trying to obtain equipment for the high altitude experiments.

The next document is on page 75, is NO 3674 and is offered as Exhibit 549. This letter of the 20 October 1942 from Sievers to Dr. Wuest, who was curator of Ahnenerbe and who was also rector of the Munich University requests certain materials and supplies which will be used for experiments to be performed in Munich.

The next document, on page 77 of the Document Book, is NO 3819, is offered as Prosecution Exhibit 550. This is a letter of 29 October 1942 from the defendant Sievers to Dr. Hirt at Strassburg stating that an Ahnenerbe subsidy will be made available to Hirt in support of his research activities.

Coming to the next document on page 78 of the Document Book. This is Document NO 2506 which is offered as Prosecution Exhibit 551. This is a cross-affidavit secured with the permission of the Tribunal from Dr. Hans Reiter who made an affidavit on behalf of Professor Handloser which, as the affidavit states, was Document Handloser 25. This document relates to the typhus conference 29 December 1941 and the affiant expresses some doubt concerning just how explicit the understanding was at that conference that artificial typhus infection should be made on concentration camp inmates to test the efficacy of the typhus vaccine.

The balance of the documents in the Document Book relate to Euthanasia. Coming to page 80 is Document NO 3356, which is offered as Prosecution Exhibit 552. We have here a transport list from Eglfing insane asylum dated 18 January 1940 and the first name on the list

is the name of a Jewish person as indicated by the name Israel. The Tribunal recalls that the witness Leibbrandt testified that all Jewish people had to take certain names to indicate their race. The name Israel was the name for the men. This list is signed by one Vorberg who was in charge of the transport company, and his name appeared on the chart of the defendant Brack in connection with Euthanasia activities.

The next document on page 81 of the document book, NO 3355 is offered as Exhibit 553. This document signed by Pfannenmeuller who appeared as a defense witness before this Tribunal relates mostly to administrative details of Euthanasia concerning children.

DR. SERVATIUS (Counsel for the defendant Karl Brandt): Mr. President, the document has 3 annexes to which reference is made. They describe the condition of the children. I ask that the Prosecution submit the entire document and not only the first page. I am very interested in the condition of the children at that time. It says, above: "Enclosures: 3 Reports." However, these 3 reports are not attached.

MISS JOHNSON: The Prosecution would be glad to supply these reports if they had them but we do not have them. They were not found with the document.

DR. SERVATIUS: In that case I ask the Tribunal to instruct the Prosecution to give me a report on how these documents were found. It seems peculiar to me that the main document was found and the enclosures were not found. There must be some report on that.

MISS JOHNSON: Dr. Servatius, you observe in the top paragraph related to deformed children - I believe that is the subject you are most interested in, isn't it - the deformity of children?

DR. SERVATIUS: Yes. There must be an exact report on these 3 children and I think that this dates back to the beginning of the Reich Committee at the time when the Eglfing institution was active. The expert has told us that these children were carefully selected. On the other hand, somebody else said that these children were who were reported on.

MISS JOHNSON: Your Honor, there is no certainty that the information which Dr. Servatius seeks to obtain in this connection would be available, even if we did have the reports.

THE PRESIDENT: The Tribunal would instruct the Prosecution to furnish Dr. Servatius and bring before the Tribunal these 3 annexes if they had them; but as it is stated they do not have them, if the Prosecution can give Dr. Servatius any information as to where they found this document, they should do so.

MR. HENDY: Your Honor, these documents, as you will plainly notice - this particular document has the initial of Pfannmueller on it. Therefore it is a carbon copy and I imagine it was standard procedure in Pfannmueller's

office, as it would be in a law office or any other office, that if you make reports you do not usually make voluminous copies of them. This here apparently is the cover-letter that went with the reports. It was found in the Pfannmueller files, at his institute. As a matter of fact, these documents were found in early 1945 by none less than the investigating team conducted by Dr. Leo Alexander. They are contained in a CINFO report, which was bound and published by an organization, that is Combined Intelligence and Detective Agencies of the British and United States Armed Forces. It would be rather difficult for me to go into any further detail to explain the source of the documents.

THE PRESIDENT: You have just complied with counsel Servatius' request that he get information that was available and the Prosecution has given it, which is sufficient.

DR. SERVATIUS: Thank you.

MISS JOHNSON: Turning to the next document which is on page 82 of the document book and which is document NO-3354, which will be marked as Prosecution Exhibit 554, we have further evidence in connection with the Euthanasia program. This shows that a Jewish person has met his death at Lublin. This statement confirms the statement of Brack's witness, Pfannmueller, that Jewish people were sent to Lublin and I believe the defendant Brack made a statement on the same subject.

Turning now to page 85 of the document book, which is NO-2094, which will be offered as Exhibit 555...

THE PRESIDENT: Counsel, how about document NO-2094 on page 83?

MISS JOHNSON: Your Honor, in my book it skips from 82 to 85. On 82 we have 3354 and I don't know whether that's 85 or 83, NO-2094 -- 83. I guess that is 83 perhaps.

DR. FROGCHIANNI (Counsel for the defendant Brack): Could you please hand me the original? Mr. President, I must object to the admission of this document. Obviously this is a document which was not signed. The minimum required of a document is the fact that it at least indicate the sender. Neither the name or the address of the sender has been stated here.

THE PRESIDENT: Pass the document to the Tribunal.

MISS JOHNSON: Your Honor, this document was found in the files of the Ministry for Eastern Territories. It was one of the documents that was found with documents which were submitted to Brack on cross-examination and which were apparently admissible at that time although, of course, the admissibility of these documents has not been determined for certain. It relates to the question of whether or not Brack received a certain letter dated November 1941, which he denied on examination that he received, and this is proof of the fact that the letter was sent.

DR. FROSCHEMANN: Mr. President, may I state in that connection that in the document which was submitted to Brack during the cross-examination, no letter dated 11 November 1941 was mentioned? The letter which was submitted to Brack was dated the 25th of October 1941. Therefore no letter 11 November 1941 could have been attached?

MR. HARDY: May it please the Tribunal. This document purports to be an original German document, found by our forces in the overrunning of Germany. It is obvious from the contents thereof that it was around the November period of 1941. I assure you that we didn't manufacture it. It was found by the Allied Forces here in Germany. It is a German document and it has probative value here it is...

JUDGE SEHRING: What probative value does it have, Mr. Hardy, in its present form?

THE PRESIDENT: And against whom?

JUDGE SEHRING: And against whom and by whom?

MR. HARDY: It has the probative value that Miss Johnson just outlined to you and that is in that it refers to Obordionstloiter Brack right in the document.

DR. FROSCHEMANN: Mr. President, that may have been a draft. It may have been a copy. It need never have been sent. It is a document which lacks every trace of probative value and admissibility.

THE PRESIDENT: Objection sustained. This document will not be admitted.

MR. HARDY: If your Honor please, would the situation change if the Prosecution could produce positive evidence where this document was obtained, from what file folder and in what ministry?

THE PRESIDENT: At most this simply refers to a letter sent to certain persons including the defendant Brack.

MR. HARDY: Well, inasmuch as I did not take the cross-examination of the defendant Brack I assume that the purpose of this document is to refute and rebut answers that the defendant Brack gave concerning his connection with the Reich Kommissar for the East and the Reich Kommissar.

THE PRESIDENT: Well, of course the Tribunal will reserve the ruling if counsel desires to examine the evidence in the case of defendant Brack. We can hear from counsel again Monday.

MISS JOHNSON: The next document appears on page 89 of the document book. It is NO-1874. It will be offered as Prosecution Exhibit 555.

THE PRESIDENT: Counsel, what number is the number of the document to which you are referring?

MISS JOHNSON: 1874. I beg your pardon, 1873.

THE PRESIDENT: Well there is one document on page 84 - Document No. 1234-PS.

MISS JOHNSON: Yes, your Honor. Yes. Coming to page 84 which is No. 1234-PS, which will be offered as Exhibit 555, we have here under date of 3 April 1942 a letter from the commandant of the Gross-Rosen Concentration Camp to the Reich Main Office of Economic Administration, stating that it has received a report, that is that the concentration camp has received a report that 127 prisoners have received special treatment on 2 April 1942. The prosecution contends that "special treatment" in this case is extermination or euthanasia as it is applied to concentration camps.

We come next to page 89 of the document book, which is NO....

THE PRESIDENT: Just a moment, counsel; Dr. Froeschmann is waiting.

DR. FROESCHMANN: I merely wanted to ask the Prosecution against whom this document 1234-PS is directed? The document to be found on page 87 of the German document book dates back to 5 December, 1944, and I do not

know against whom it is really directed.

MISS JOHNSON: Well, your Honor, this document is directed against all the defendants who have been charged with activities in connection with euthanasia.

DR. FROSCHEMAN: Mr. President, I should like to reserve the right that I submit an affidavit in answer to document 1234, and affidavit by the defendant Brack.

THE PRESIDENT: Counsel may submit an affidavit by defendant Brack if it is prepared and presented to the Tribunal promptly.

MISS JOHNSON: We come next to Page 89 of the document book.

THE PRESIDENT: Counsel, Page 35 is the next page on my document book.

MISS JOHNSON: I believe that runs through, that one document. I don't have any comment on the balance of NO-1234. Let me see, we come to Page 89 of the document book, Document NO-1873, which will be offered as Prosecution's Exhibit 556. This is a notification from the concentration camp Gross-Rosen to the euthanasia extermination station, Bernburg, that seventy prisoners are being transferred from the concentration camp to the extermination center. This is under the date of 17 March, 1942. 1942 that is dated.

We come now to Page 93 of the document book, Document NO-2253, which is offered as Prosecution's Exhibit 557. We have here the affidavit of one Suchomel. He was in the Ministry of Justice during the Hitler regime, and he makes certain statements with respect to the euthanasia program. He states that the parents of children subjected to that program were not asked to give their consent, but rather that euthanasia was applied without any regard to the consent of the parents. He further states that foreigners and Jewish people were included in the program, and he makes special reference to the activities of the Defendants Brandt and Brack.

We come now to Page 99 of the document book, Document No- 3059, which is offered as Prosecution's Exhibit 558. This is a document which has been before the Court before. At that time the defense objection to the document was sustained because the document did not contain a proper jurat. We have now obtained affidavit in proper form. The affidavit relates to the question of euthanasia in regard to children.

Your Honor, I see that I have made a mistake here in my comment on Document 3059. This an affidavit which is newly submitted to the Court. It has not been before the Court before. It is an affidavit of Hermann Boehm and has to do with euthanasia, the activity of Defendant Karl Brandt in that Program.

We come now to Page 102 of the document book, NO-896, which will be offered as Prosecution's Exhibit 559. This is the affidavit which was presented to the Court at an earlier stage and which was not admitted because it did not contain proper jurat. We have now had it prepared in the proper form. It relates to euthanasia concerning children.

The completes the presentation of rebuttal documents of the Prosecution.

MR. HARDY: May it please the Tribunal, of course, the Prosecution has a few miscellaneous documents which they will put in rebuttal as they are processed next week. As you will recall I promised I would introduce interrogations of the Defendant Hoven, and those are now being processed. Those will be put in. Of course, we do have a few other miscellaneous documents. At this time the Prosecution does not have any further documents to submit to the Tribunal today.

THE PRESIDENT: There are a good many Prosecution documents for identification.

MR. HARDY: Those we have are now in the stage of being processed, and when we get them together we can introduce them in a more expeditious manner than if we attempt to hobble along here today. We are attempting to make an index of all documents which are marked for identification, and we perhaps can cover that problem in the matter of an hour or two. We will cover that next week.

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June 28-A-24-3-HD-Hoxsie-Ramler.

THE PRESIDENT: The Tribunal will announce that it will not hold sessions on the 4th or 5th of July next week, unless some emergency arises which requires the Tribunal to change its mind. The Tribunal will now be in recess until nine-thirty o'clock Monday morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 Monday morning.

(The Tribunal adjourned until 30 June 1947 at 0930 hours.)

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